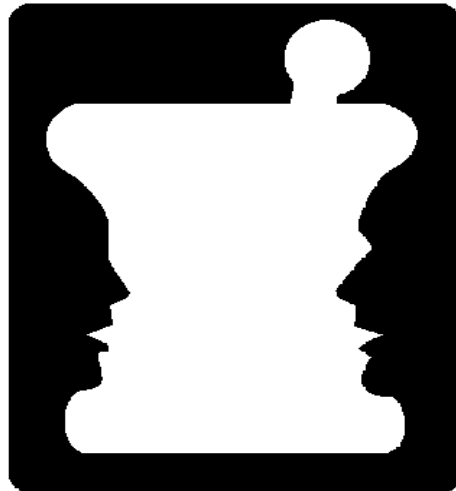


# **DISCIPLINARY GUIDELINES**

A Manual of Disciplinary Guidelines  
and Model Disciplinary Orders



***BE AWARE & TAKE CARE:  
Talk to your pharmacist!***

**California State Board of Pharmacy  
Department of Consumer Affairs  
(Rev. Proposed 1/2001)**

**STATE BOARD OF PHARMACY**  
**DEPARTMENT OF CONSUMER AFFAIRS**

Robert Elsner  
President

Steve Litsey, Vice President

Caleb Zia

Donald W. Gubbins, Jr., PharmD.

Darlene Fujimoto, PharmD.

John D. Jones

Holly Strom

Rich Mazzoni

Andrea Zinder

William Powers

Patricia F. Harris  
Executive Officer

400 R Street, Suite 4070  
Sacramento, CA 95814  
(916) 445-5014

ATSS: 8-485-5014  
Fax: (916) 327-6308  
8-467-6308

Additional copies of these disciplinary guidelines  
may be ordered from the  
address above

**BOARD OF PHARMACY**  
**DISCIPLINARY GUIDELINES**  
**TABLE OF CONTENTS**

Introduction .....	1
Factors to be Considered in Determining Penalties .....	3
Mitigating Evidence .....	4
<b>Pharmacist/Intern Pharmacist</b> .....	5
Terms of Probation – Pharmacist/Intern Pharmacist .....	5
Categories of Violation and Recommended Penalties .....	5
Category I – Penalty .....	5
Category II – Penalty .....	11
Category III – Penalty .....	15
Category IV – Penalty .....	17
Model Disciplinary Language – Pharmacist/Intern Pharmacist .....	18
Standard Conditions .....	22
Optional Conditions.....	25
<b>Pharmacy Technician</b> .....	34
Terms of Probation – Pharmacy Technician .....	34
Category III – Penalty .....	35
Model Disciplinary Language – Pharmacy Technician.....	35
Standard Conditions .....	39
Optional Conditions.....	42
<b>Exemptee</b> .....	45
Terms of Probation – Exemptee .....	45
Category III – Penalty .....	45
Model Disciplinary Language – Exemptee.....	46
Standard Conditions .....	49
Optional Conditions.....	52
<b>Premises</b> .....	55
Terms of Probation – Premises .....	55
Category I – Penalty .....	55
Category II – Penalty .....	61
Category III – Penalty .....	66
Category IV – Penalty .....	68
Model Disciplinary Language – Premises .....	69
Standard Conditions .....	72
Optional Conditions.....	74

# **DEPARTMENT OF CONSUMER AFFAIRS STATE BOARD OF PHARMACY**

## **DISCIPLINARY GUIDELINES (Rev. Proposed 1/2001)**

### **INTRODUCTION**

The Board of Pharmacy is responsible for the enforcement of statutes and regulations related to the practice of pharmacy. The board serves the public by:

- ❑ protecting the health, safety, and welfare of the people of California with integrity and honesty;
- ❑ advocating the highest quality of affordable pharmaceutical care;
- ❑ providing the best available information on pharmaceutical care; and
- ❑ promoting education, wellness and quality of life.

Pharmacists are patient advocates who provide pharmaceutical care for the citizens of California enlightening them about their drug therapy through effective communicating and listening, assessing, collaborating, understanding and intervening. In addition, enforcement officials are provided the resources to act quickly, consistently and efficiently in the public's interest.

The board recognizes the importance of ensuring the delivery of dangerous drugs and controlled substances for therapeutic purposes. At the same time, and given the historical and current abuse and diversion of drugs, particularly controlled substances, the board believes there should be no tolerance for licensees who traffic in drugs or who, in the absence of appropriate evidence of rehabilitation, personally abuse drugs.

In accordance with section 1760 of the California Code of Regulations, the board has produced this booklet for those involved in and affected by the disciplinary process: the general public, attorneys from the Office of the Attorney General, administrative law judges from the Office of Administrative Hearings, defense attorneys, board licensees, the courts, board staff and board members who review and vote on proposed decisions and stipulations.

These guidelines are to be followed in Board of Pharmacy disciplinary actions. The board has the final authority over the disposition of its cases, and, to complete its work, it uses the services of the Office of the Attorney General and the Office of Administrative Hearings. The board recognizes that individual cases may necessitate a departure from these guidelines. In such cases, the mitigating circumstances shall be detailed in any proposed decision or any transmittal memorandum accompanying a proposed stipulation, especially where Category III violations are involved.

The board has found that accusations are rarely filed except in serious cases. In general, the position of the board is that revocation should always be an option whenever grounds for discipline are found to exist. Board policy is that revocation is generally an appropriate order

where a respondent is in default, such as when he or she fails to file a notice of defense or fails to appear at a disciplinary hearing.

Board policy is that a suspension, where imposed, should be at least 30 days for an individual and at least 14 days for a licensed premises.

The board seeks recovery of all investigative and prosecution costs up to the hearing in all disciplinary cases. This includes all charges of the Office of the Attorney General, including, but not limited to, those for legal services, and includes charges by expert consultants. The board believes that the burden of paying for disciplinary cases should fall on those whose conduct requires investigation and prosecution, not upon the profession as a whole.

The board recognizes there may be situations where an individual licensee deserves a stronger penalty than the pharmacy for which he or she works, but the board also believes in holding a pharmacy owner responsible for the acts of their employees who operate the pharmacy. Similarly, the board recognizes that in some cases a licensed premises may well be more culpable than any individual licensed by or registered with the board.

For purposes of these guidelines “board” includes the board and or its designees.

## **FACTORS TO BE CONSIDERED IN DETERMINING PENALTIES**

Section 4300 of the Business and Professions Code provides that the board may discipline the holder of, and suspend or revoke, any certificate, license or permit issued by the board.

In determining whether the minimum, maximum, or an intermediate penalty is to be imposed in a given case, factors such as the following should be considered:

1. actual or potential harm to the public
2. actual or potential harm to any consumer
3. prior disciplinary record, including level of compliance with disciplinary order(s)
4. prior warnings of record(s) , including citation(s) and fine(s)
5. number and/or variety of current violations
6. nature and severity of the act(s), offense(s) or crime(s) under consideration
7. mitigating evidence
8. rehabilitation evidence
9. compliance with terms of any criminal sentence
10. overall criminal record
11. if applicable, evidence of proceedings for case being set aside and dismissed pursuant to section 1203.4 of the Penal Code
12. time passed since the act(s) or offense(s)
13. whether the conduct was intentional or negligent, demonstrated incompetence, or, if the respondent is being held to account for conduct committed by another, the respondent had knowledge of or knowingly participated in such conduct
14. financial benefit to the respondent from the misconduct.

No single or combination of the above factors is required to justify the minimum and maximum penalty as opposed to an intermediate one.

## MITIGATING EVIDENCE

A respondent is permitted to present mitigating circumstances at a hearing or in the settlement process and has the burden of demonstrating any rehabilitative or corrective measures he or she has taken. The board does not intend, by the following references to written statements, letters, and reports, to waive any evidentiary objections to the form of such evidence. The respondent must produce admissible evidence in the form required by law in the absence of a stipulation by the complainant.

The following are examples of appropriate evidence a respondent may submit to demonstrate his or her rehabilitative efforts and competency:

- a. Recent, dated written statements and/or performance evaluations from persons in positions of authority who have on-the-job knowledge of the respondent's current competence in the practice of pharmacy including the period of time and capacity in which the person worked with the respondent. Such reports must be signed under penalty of perjury and will be subject to verification by board staff.
- b. Recent, dated letters from counselors regarding the respondent's participation in a rehabilitation or recovery program should include at least a description and requirements of the program, a psychologist's diagnosis of the condition and current state of recovery and the psychologist's basis for determining rehabilitation.
- c. Recent, dated letters describing the respondent's participation in support groups, (e.g., Alcoholics Anonymous, Narcotics Anonymous, professional support groups, etc.).
- d. Recent, dated laboratory analyses or drug screen reports, confirming abstinence from drugs and alcohol.
- e. Recent, dated physical examination or assessment report by a licensed physician, confirming the absence of any physical impairment that would prohibit the respondent from practicing safely.

## **TERMS OF PROBATION – PHARMACIST/INTERN PHARMACIST**

A minimum three-year probation period has been established by the board as appropriate in most cases where probation is imposed. A minimum five-year probation period has been established by the board as appropriate where self-administration or diversion of controlled substances is involved. Terms and conditions are imposed to provide consumer protection and to allow the probationer to demonstrate rehabilitation. A suspension period may also be required as part of the probation order. The board prefers that any stayed order be for revocation rather than for some period of suspension.

Probation conditions are divided into two categories: (1) standard conditions that shall appear in **all** probation cases, and (2) optional conditions that depend on the nature and circumstances of a particular case. These conditions may vary depending on the nature of the offense(s).

The board may also impose any other condition appropriate to the case where the condition is not contrary to public policy.

## **CATEGORIES OF VIOLATIONS AND RECOMMENDED PENALTIES**

The California Pharmacy Law specifies the offenses for which the board may take disciplinary action. The following are categories of violations used by the board in determining appropriate disciplinary penalties.

The board also has the authority, pursuant to Business and Professions Code section 4301(n), to impose discipline based on disciplinary action taken by another jurisdiction. The discipline imposed by the board will depend on the discipline imposed by the other jurisdiction, the extent of the respondent's compliance with the terms of that discipline, the nature of the conduct for which the discipline was imposed, and other factors set forth in these guidelines.

### **CATEGORY I**

Minimum: Revocation; Revocation stayed; one year probation. All standard terms and conditions shall be included and optional terms and conditions as appropriate.

Maximum: Revocation

Category I discipline is recommended for:

- violations which are relatively minor but are potentially harmful
- repeated violations of a relatively minor nature:

Violation codes are as follows:



## **BUSINESS AND PROFESSIONS CODE**

### **Article 3. Scope of Practice and Exemptions**

- 4053 Exemptee Supervision of Manufacturers, Wholesalers, and Licensed Laboratories;  
Veterinary Food-Animal Drug Retailers
- 4054 Supplying Dialysis Drugs
- 4056 Exempt Hospitals
- 4057 Exempt Articles
- 4058 License to be Displayed
- 4062 Furnishing Drugs during Emergency
- 4064 Emergency Refills
- 4065 Administration through Injection Card System
- 4066 Furnishing to Ocean Vessel

### **Article 4. Requirements for Prescription**

- 4070 Reduction of Oral or Electronic Prescription to Writing
- 4071 Prescriber's Agent Transmitting Prescriptions
- 4072 Transmitting Prescriptions from a Health Care Facility
- 4073 Drug Product Selection
- 4074 Drug Warnings
- 4076 Prescription Label Requirements
- 4077 Labeling

### **Article 5. Authority of Inspectors**

- 4082 Information about Personnel

### **Article 6. General Requirements**

- 4100 Change of Name or Address
- 4102 Skin Puncture for Patient Training
- 4103 Blood Pressure Measurement

### **Article 7. Pharmacies**

- 4114 Intern Pharmacist Activities
- 4119 Emergency Kit for Licensed Health Care Facilities
- 4119.5 Transferring or Repacking Drugs
- 4121 Prescription Price Advertising
- 4122 Requests for Prescription Price Information
- 4123 Pharmacy contracts for Compounding of Parenteral Drugs
- 4124 Contact Lens Dispensing

### **Article 9. Hypodermic Needles and Syringes**

- 4141 License Required
- 4142 Prescription Required
- 4143 Exemption: Wholesale Sales

- 4144 Exemption: Industrial Uses
- 4145 Exemption: Human (Insulin; Adrenaline) or Animal Use
- 4146 Hypodermic Register
- 4148 Confiscation
- 4149 Nonresident Distributor

## **Article 10. Pharmacy Corporations**

- 4151 Requirements for Shareholders, Directors, and Officers
- 4152 Corporate Name
- 4153 Shareholder Income While Disqualified
- 4156 Unprofessional Conduct

## **Article 11. Wholesalers and Manufacturers**

- 4161 Out-of-State Manufacturer or Wholesaler
- 4162 Registration -- Agent
- 4163 Sales to Unauthorized Persons
- 4165 Furnishing Records
- 4166 Responsibility Until Delivery
- 4167 Bar on Obtaining More Than Can Be Stored on Licensed Premises

## **Article 13. Non-Profit or Free Clinics**

- 4180 License Required (Non-Profit, etc Clinics)
- 4181 License Requirements
- 4182 Application; Consulting Pharmacist
- 4183 No Medi-Cal Dispensing Fee
- 4184 No Schedule II Dispensing
- 4186 Professional Director

## **Article 14. Surgical Clinics**

- 4190 License Required (Surgical Clinic)
- 4191 License Requirements
- 4192 Professional Director
- 4193 No Medi-Cal Dispensing Fee
- 4194 No Schedule II Dispensing

## **Article 15. Veterinary Food-Animal Drug Retailers**

- 4196 License Required; Temporary License; Security
- 4197 Standards; Waiver
- 4198 Policies and Procedures; Quality Assurance; Consulting Pharmacist

## **Article 17. Continuing Education**

- 4231 Renewal Requirements
- 4232 Course Content

## Article 18. Poisons

4240 Application of Act

## Article 20. Prohibitions and Offenses

4341 Advertising in Compliance with Sections 651.3

4343 Use of Sign with "Pharmacy" or Similar Terms

## CALIFORNIA CODE OF REGULATIONS, TITLE 16

- 1704 Change of address - reporting a change of address
- 1705 Notification of Bankruptcy, Receivership or Liquidation - reporting the sale, inventory and location of records of dangerous drugs by a pharmacy, wholesaler or manufacturer in bankruptcy
- ~~1706.1 Permit Processing Times~~
- 1708.2 Discontinuance of business - notification to board of a discontinuance of business and submission of appropriate forms
- 1708.4 Pharmacist handling radioactive drug - training of a nuclear pharmacist
- 1708.5 Pharmacy Furnishing Radioactive Drugs - nuclear pharmacy requirements
- 1709 Names of Owners and pharmacist-in-charge - required information on a pharmacy permit, reporting PIC and owners on initial and renewal applications, and reporting of corporate officer changes
- 1714 Operational Standards and Security
- 1715.6 Reporting drug loss - reporting loss of controlled substances to the Board within thirty (30) day
- 1716 Variation from prescriptions - prescription errors, deviation from prescription without consent of prescriber
- 1717 Pharmaceutical practice - dispensing in new containers, pharmacist maintain on prescription record: date and initial of pharmacist, brand name of drug or device and indication if generic and manufacturer name, refill information, orally transmitted prescription requirements, depot of a prescription or a medication, prescription transfers, identification of pharmacist responsible for filling a prescription
- 1717.1 Common Electronic Files - establishing a common electronic file to maintain required dispensing information
- 1717.4 Electronic Transmission of Prescriptions - transmitting prescriptions by electronic means from prescriber to the pharmacy
- 1718.1 Manufacturer's Expiration Date - handling of prescription drugs not bearing a manufacturer's expiration date pursuant to federal law
- 1726 Preceptor
- 1727 Intern Pharmacist
- 1728 Intern Experience - Requirements for Licensure
- 1732.1 Requirements for Recognized Providers - requirements to provide continuing education courses as a recognized provider for California pharmacists
- 1732.3 Coursework Approval for Providers
- 1732.4 Provider Audit Requirements
- 1732.5 Renewal Requirements for Pharmacist
- 1744 Drug warnings - oral or written warnings when a drug should not be taken with alcohol or when a person should not drive

- 1751 to
- 1751.09 and
- 1751.11 to
- 1751.12     Compounding Area for Parenteral Solutions - parenteral therapy requirements for pharmacists and pharmacies
- 1771         Posting notice of suspension - suspended pharmacy must post a notice of suspension
- 1772         Disciplinary conditions of suspension - suspended pharmacist shall not enter a pharmacy prescription area or perform pharmacy related duties
- 1780         Minimum standards for wholesalers
- 1780.1       Minimum Standards for Veterinary Food-Animal Drug Retailers
- 1781         Exemption certificate - exemptee must be present in a manufacturer's or wholesaler's licensed premises
- 1786         Exemptions -return of exemption certificate to board upon termination of employment
- 1787         Authorization to Distribute Hemodialysis Drugs and Devices
- 1790         Assembling and Packaging
- 1791         Labeling
- 1792         Receipt of Shipment

## **HEALTH AND SAFETY CODE, TITLE 22**

- 11100        Report of controlled substance transaction - reporting sales of restricted chemicals to Department of Justice
- 11100.1     Report of controlled substances received from outside state – reporting Purchases of restricted chemicals from outside California
- 11124        Inventory of Controlled Substances
- 11151        Filling Prescription Issued By Unlicensed Person Lawfully Practicing Medicine
- 11158        Prescription required for Schedule I, II, III or IV controlled substances - prescriptions for controlled substances must comply with requirements prior to dispensing
- 11159        Exemption for patient in county or licensed hospital - controlled substance orders in hospitals
- 11159.1     Clinic Records
- 11159.2     Terminally Ill Exception
- 11167        Emergency dispensing of Schedule II substance - emergency oral Schedule II prescriptions; must receive a triplicate within seventy-two (72) hours
- 11167.5     Emergency oral prescriptions for in-patients - oral orders for Schedule II drugs in a skilled nursing facility, intermediate care facility, or a home health care agency providing hospice care; pharmacy to obtain special triplicates from Dept. of Justice; facility must forward all signed order to the pharmacy
- 11171        Prescribing, administering, or furnishing controlled substance – furnishing controlled substances must be consistent with law
- 11172        Antedating or postdating prescription
- 11175        Obtaining and possession nonconforming prescription; obtaining controlled substance by nonconforming prescription
- 11180        Controlled substance obtained or possessed by nonconforming prescription - possession of a controlled substance obtained from noncomplying prescriptions
- 11200        Restrictions on dispensing or refilling - refill restrictions of controlled substances
- 11201        Emergency Refill by Pharmacist
- 11205        Maintenance and retention of file - separate prescription file for Schedule II

- prescriptions
- 11206 Required information - information required on a prescription for controlled substances
- 11209 Delivery of Controlled Substances
- 11210 Prescription under authorized project - a prescriber may not prescribe controlled substances to treat addiction
- 11250 Authorized Retail Sale by Pharmacists
- 11251 Authorized Wholesale Sale by Pharmacists
- 11252 Preservation of federally required forms - a wholesaler or manufacturer must maintain records of sales
- 11253 Duration of retention
- 11255 Actions constituting sale - orders for future delivery constitutes a sale of a controlled substance
- 11256 Report of Order by or Sale to Out-of-State Wholesaler

## **CODE OF FEDERAL REGULATIONS, TITLE 21**

- 1301.11 Persons Required to Register
- 1301.12 Separate Registration for Separate Locations
- 1301.71 Security requirements, generally
- 1301.72 Physical security controls for non-practitioners; narcotic treatment programs and compounders for narcotic treatment programs; storage areas
- 1301.73 Physical security controls for non-practitioners; compounders for narcotic treatment programs; manufacturing and compounding areas
- 1301.74 Other security controls for non-practitioners; narcotic treatment programs and compounders for narcotic treatment programs
- 1301.75 Physical security controls for practitioners
- 1301.76 Other Security Controls for Practitioners
- 1301.90 Employee screening procedures
- 1301.91 Employee responsibility to report drug diversion
- 1301.92 Illicit activities by employees
- 1302.03 Symbol required; exceptions
- 1302.04 Location and size of symbol on label
- 1302.05 Effective Dates of Labeling Requirements
- 1302.06 Sealing of controlled substances
- 1302.07 Labeling and packaging requirements for imported and exported substances
- 1304.18 Inventories of importers and exporters
- 1304.31 Reports from manufacturers importing opium
- 1304.32 Reports of manufacturers importing medicinal coca leaves
- 1304.33 Reports to ARCOS
- 1305.03 to
- 1305.06 and
- 1305.08 to
- 1305.12 and
- 1305.14 to
- 1305.16 Distributions requiring order forms; persons entitled to obtain and execute order forms; procedure for obtaining order forms; procedure for executing order forms; persons entitled to fill order forms; procedure for filling order forms; procedure for endorsing order forms; unaccepted and defective order forms; lost and stolen order forms; return of unused order forms

1306.03	Persons entitled to issue prescriptions
1306.05	Manner of issuance of prescriptions
1306.14	Labeling of substances - Schedule II.
1306.24	Labeling of substances - Schedule III and IV
1306.25	Transfer of Schedule III, IV, and V Prescriptions
1306.26	Dispensing Without a Prescription
1307.11	Distribution by dispenser to another practitioner -
1307.12	Manufacture and distribution of narcotic solutions and compounds by a pharmacist
1307.13	Distribution to supplier
1307.21	Procedure for disposal of controlled substances

## **MISCELLANEOUS - HEALTH AND SAFETY CODE, TITLE 22**

111225 to	
111655	Adulterated or misbranded drugs or devices

## **MISCELLANEOUS - FEDERAL REGULATIONS**

16 CFR 1700.1 to	
1707.15	Child-resistant containers

## **CATEGORY II**

Minimum: Revocation; Revocation stayed, three years probation (five years probation where self-administration or diversion of controlled substances is involved). All standard terms and conditions shall be included and optional terms and conditions as appropriate.

Maximum: Revocation

Category II discipline is recommended for:

- violations with a serious potential for harm
- violations which involve greater disregard for pharmacy law and public safety
- violations which reflect on ethics, care exercised or competence or a criminal conviction not involving dangerous drugs or controlled substances or involving possession or use of dangerous drugs or controlled substances.

Violation codes are as follows:

## **BUSINESS AND PROFESSIONS CODE**

### **Article 3. Scope of Practice and Exemptions**

4051(b)	Conduct Authorized by Pharmacist from Outside Pharmacy
4052	conduct Authorized by Pharmacist
4060	Possession of Controlled Substance
4061	Distribution of Sample Drugs
4063	Refills

- 4067 Prescription Dispensing over the Internet
- 4075 Proof of Identity of Recipient for Controlled Substance Prescriptions
- 4078 False or Misleading Labeling

## **Article 6. General Requirements**

- 4101 Termination as Pharmacist in Charge; Notice to Board
- 4104 Licensed Employee: Theft or Impairment
- 4105 Retaining Records on Premises

## **Article 7. Pharmacies**

- 4112 Non-Resident Pharmacy Registration
- 4113 Pharmacist in Charge
- 4115 Pharmacy Technician Activities
- 4115.5 Pharmacy Technician Trainee
- 4116 Security – Pharmacy
- 4117 Security – Hospital Pharmacy
- 4120 Non-Resident Pharmacy Registration

## **Article 9. Hypodermic Needle and Syringes**

- 4140 Possession
- 4147 Disposal

## **Article 11. Wholesalers and Manufacturers**

- 4160 License Required
- 4163 Sales to Unauthorized Persons
- 4164 Reporting by Manufacturer and Wholesalers

### **Article 13. Non-Profit of Free Clinics**

4185        Inspections

### **Article 14. Surgical Clinics**

4195        Inspections

### **Article 19. Disciplinary Proceedings**

4301        General unprofessional conduct and subsections (a)-(h), and (l) through (q)  
4302        Pharmacy Corporation  
4303        Nonresident Pharmacy  
4304        Out-of-State Distributors  
4305        Failure to Notify Board of Termination of Pharmacist in Charge; Operation of  
             Pharmacy without a Pharmacist  
4305.5      Failure to Keep Pharmacist in Charge or Exemptee in Charge; Failure to Notify  
             Board of Termination of Same  
4306        Violation of Moscone-Knox Professional Corporation Act  
4306.5      Pharmacist Misuse of Education, etc.

### **Article 20. Prohibitions and Offenses**

4326        Hypodermics: Obtaining Falsely; Misuse  
4328        Allowing Compounding by Non-pharmacist  
4330        Pharmacy; Failure to Place Pharmacist in Charge-, Subverting Compliance with  
             Law by Pharmacist-in- Charge  
4331        Veterinary Food-Animal Drug Retailer; Dispensing by Other than Pharmacist or  
             Exemptee; Failure to Place Pharmacist or Exemptee in Charge  
4333        Failure to Maintain Prescription Files  
4340        Advertisement of Pharmacy Services by Unregistered Non-Resident Pharmacy

### **Article 22. Unfair Trade Practices**

4380        Resale of Preferentially Priced Drugs; Emergency Exception  
4381        Violation of Section 4380 as Unfair Competition; Right of Private Action to Enforce  
4382        Authority of Board to Audit for Compliance

## **CALIFORNIA CODE OF REGULATIONS, TITLE 16**

1707.1      Duty to maintain medication profiles (patient medication records) - requirements for  
             maintenance of patient medication profiles  
1707.2      Notice to consumers and duty to consult - requirements of pharmacist to consult;  
             posting of notice to consumers  
1707.3      Reviewing the patient profile prior to consultation  
1709.1      Designation of pharmacist in charge  
1714.1      Pharmacy Operations during the Temporary Absence of Pharmacist  
1715        Self-Assessment of a Pharmacy by the Pharmacist-in-Charge  
1715.5      Transmitting Schedule II Prescription Information to CURES



1716.1	Compounding drugs for prescriber office use
1716.2	Record requirements when compounding for future furnishing
1717.2	Notice of Electronic Prescription Files
1717.3	Preprinted multiple check-off prescription blanks
1723.1	Confidentiality of Examination Questions
1745	Partial filling of Schedule II prescriptions
1751.10	Furnishing to parenteral patient at home - carrying and furnishing dangerous drugs to parenteral patients
1761(a)	Erroneous or Uncertain Prescriptions -
1764	Unauthorized disclosure of prescriptions - revealing the contents of a prescription to unauthorized persons
1765	Commissions, gratuities and rebates - commission, gratuity or rebate to a health care facility
1766	False or misleading advertising
1775.3	Compliance with Orders of Abatement
1782	Reporting Sales of Drugs Subject to Abuse
1783	Manufacturer or Wholesaler Furnishing
1793.1 to	
1793.7	Ancillary personnel - pharmacy technician requirements and tasks

## HEALTH AND SAFETY CODE, TITLE 22

11103	Report of theft, loss, or shipping discrepancy - reporting losses of restricted chemicals to Department of Justice
11123	Warehouseman License
11124	Warehouse Inventory
11125	Warehouseman Bond
11128	Nontransferability of Warehouse License
11129	Discipline or Denial of Warehouse License
11130	Disciplinary Grounds for Warehouse License
11131	Disciplinary Grounds for Warehouse License
11150	Issuing Controlled Substance Prescription
11152	Nonconforming prescriptions - filling a prescription that does not conform to the requirements of the code
11154	Issuing Prescriptions; Soliciting Unlawful Prescription
11156	Administering or dispensing controlled substance to addict - prohibition on administering or dispensing a controlled substance to an addict or a habitual user
11164	Completion of prescription for Schedule II-V controlled substance - prescription requirements for controlled substances
11166	Time For Filling Schedule II Prescriptions; Mutilated, Forged or Altered Prescriptions
11170	Prohibition on controlled substance for self use - prohibition on prescribing, administering or furnishing controlled substance to self
11179	Retention period - prescription file to be maintained' for three (3) years
11207	Filling prescription only by pharmacist or intern pharmacist - dispensing, compounding, filling by pharmacist or intern pharmacist only
11209	Delivery and Receiving Requirements for Schedule II, III & IV Substances
11350	Possession of specified controlled substance - illegal possession of a narcotic
11377	Unlawful possession of specified substance - illegal possession of a non-narcotic controlled substance

## **CODE OF FEDERAL REGULATIONS, TITLE 21**

1304.03	Persons required to keep records and file reports
1304.04	Maintenance of records and inventories
1304.11	General requirements for inventories
1304.21	General requirements for continuing records
1304.22	Records for manufacturers
1305.07	Power of attorney
1305.13	Preservation of order forms
1306.04	Purpose of issue of prescription
1306.06	Persons entitled to fill prescriptions
1306.07	Administering or dispensing of narcotic drugs
1306.11	Requirement of Schedule II Prescriptions
1306.12	Refilling prescriptions - Schedule II
1306.13	Partial filling of prescriptions - Schedule II
1306.21	Requirement of prescription - Schedule III and IV
1306.22	Refilling of prescriptions - Schedule III and IV
1306.23	Partial filling of prescriptions - Schedule III and IV

## **CATEGORY III**

Minimum: Revocation; Revocation stayed, 90 days actual suspension, three to five years probation (five years probation where self-administration or diversion of controlled substances is involved). All standard terms and conditions and optional terms and conditions as appropriate.

Maximum: Revocation

Category III discipline is recommended for:

- most criminal convictions involving dangerous drugs or controlled substances
- knowing or willfully violating laws or regulations pertaining to dispensing or distributing dangerous drugs or controlled substances
- fraudulent acts committed in connection with the licensee's practice
- drug shortages
- violation of a licensee's corresponding responsibility.

Violation codes are as follows:

## **BUSINESS AND PROFESSIONS CODE**

### **Article 3. Scope of Practice and Exemptions**

- 4051(a) Conduct Limited To Pharmacist
- 4059 Furnishing Without Prescription
- 4059.5 Ordering Dangerous Drugs or Devices

### **Article 5. Authority of Inspectors**

- 4080 Stock Open for Inspection
- 4081 Records of Acquisition and Dispensing; Inspection

### **Article 7. Pharmacies**

- 4110 Requirement of License; Temporary Licenses
- 4111 Ownership by Prescribers Prohibited

### **Article 15. Veterinary Food-Animal Retailers**

- 4199 Labeling, Recordkeeping

### **Article 19. Disciplinary Proceedings**

- 4301 Subsections (i) and (k)
- 4307 Prohibition Against Association with a License
- 4308 Notification of Licensee Person is Prohibited from Association; Replacement

### **Article 20. Prohibitions and Offenses**

- 4322 False Representation to Obtain Licensure
- 4323 False Representation by Telephone or Electronic Transmission to Obtain a Drug
- 4324 Forgery or Alteration
- 4325 Producing Prescription Blanks Without Authorization
- 4327 Use of Alcohol or Drugs while on Duty
- 4329 Nonpharmacist Taking Charge
- 4332 Failure or Refusal to Produce or Provide Records
- 4335 Failure to Arrange for Transfer of Stock after Closure
- 4336 Use of Minor as Agent to Violate Pharmacy Law

## **CALIFORNIA CODE OF REGULATIONS, TITLE 16**

- 1718 Current inventory defined - audit accountability of dangerous drugs
- 1761(b) Controlled substance prescription--professional judgment
- 1771 to
- 1774 Disciplinary conditions of suspension and probation

## **HEALTH AND SAFETY CODE, TITLE 22**

11104	Providing controlled substances for manufacturing
11105	False statement in report
11122	Storage of controlled substances
11150	Persons authorized to write or issue a prescription
11153	Responsibility for controlled substance prescription – corresponding responsibility of a pharmacist
11153.5	Furnishing a controlled substance for other than a legitimate medical purpose - corresponding responsibility of a wholesaler or manufacturer
11157	False or fictitious prescription - issuing a false or fictitious prescription
11162.5	Counterfeiting or possession of counterfeit prescription blank
11173	Fraud, deceit, misrepresentation or false statement - obtaining controlled Substances by fraud or deceit
11174	False name or address - false name or address on prescription
11351	Possession or purchase for sale of specified controlled substance – illegal possession for sale of a narcotic
11368	Forged or altered prescriptions-forging a narcotic prescription
11375	Possession for sale or selling specified substance
11378	Possession for sale-illegal possession for sale of a nonnarcotic
11550	Use or being under the influence of controlled substance

## CATEGORY IV

Penalty: Revocation

Revocation is recommend for violations of the Uniform Controlled Substance Act (Heath and Safety Code 11000 et seq.) when:

- possession for sale
- transportation
- importation
- sale
- use of a minor for the unlawful sale of controlled substances

Revocation is also recommended when:

- a respondent fails to file a notice of defense or to appear at a disciplinary hearing where the board has requested revocation in the accusation
- a respondent violates the terms and conditions of probation from a previous disciplinary order
- prior discipline has been imposed, as progressive discipline unless the respondent can demonstrate satisfactory evidence of rehabilitation.

Violation codes are as follows:

## HEALTH AND SAFETY CODE, TITLE 22

11352	Importing, selling, furnishing controlled substance - illegal sale of a narcotic
11353	Adult inducing minor to violate controlled substances provisions
11379	Transporting, importing, selling controlled substances - illegal sale of a non-narcotic
11380	Adult using, soliciting or intimidating minor for violation - violation of non-narcotic provisions or the use of a minor

## MODEL DISCIPLINARY LANGUAGE – PHARMACIST/INTERN PHARMACIST

The following standardized language shall be used in every decision where the order or condition is imposed.

### Revocation - Single Cause

License number \_\_\_\_\_, issued to respondent \_\_\_\_\_ is revoked.

Respondent shall relinquish his or her wall license and pocket renewal license to the board within 10 days of the effective date of this decision. Respondent may not petition the board for reinstatement of his or her revoked license for three years from the effective date of this decision. Respondent shall pay to the board its costs of investigation and prosecution in the amount of \$\_\_\_\_\_ within 15 days of the effective date of this decision.

**Option:** Upon reinstatement of his or her revoked license, respondent shall reimburse the board for its costs of investigation and prosecution in the amount of \$\_\_\_\_\_. Said amount shall be paid in full prior to the reinstatement of his or her license. If respondent fails to pay the amount specified, his or her license shall remain revoked.

### Revocation - Multiple Causes

License number \_\_\_\_\_, issue to respondent \_\_\_\_\_ is revoked pursuant to Determination of Issues \_\_\_\_\_, separately and together.

Respondent shall relinquish his or her wall license and pocket renewal license to the board within 10 days of the effective date of this decision. Respondent may not petition the board for reinstatement of his or her revoked license for three years from the effective date of this decision. Respondent shall pay to the board its costs of investigation and prosecution in the amount of \$\_\_\_\_\_ within 15 days of the effective date of this decision.

**Option:** Upon reinstatement of his or her revoked license, respondent shall reimburse the board for its costs of investigation and prosecution in the amount of \$\_\_\_\_\_. Said amount shall be paid in full prior to the reinstatement of his or her license. If respondent fails to pay the amount specified, his or her license shall remain revoked.

## **Suspension - Single Cause**

License number \_\_\_\_\_, issued to respondent \_\_\_\_\_ is suspended for a period of \_\_\_\_\_.

## **Suspension - Multiple Causes**

License number \_\_\_\_\_, issued to respondent is suspended for a period of \_\_\_\_\_ pursuant to Determination of Issues \_\_\_\_\_, separately and together. All suspensions shall run concurrently.

Respondent is suspended from the practice of pharmacy for \_\_\_\_\_ beginning the effective date of this decision.

## **Standard Stay/Probation Order**

License number \_\_\_\_\_, issued to respondent is \_\_\_\_\_; however, the \_\_\_\_\_ is stayed and respondent is placed on probation for \_\_\_\_\_ years upon the following terms and conditions:

## **Issuance of Probationary License**

The application for licensure of respondent is hereby granted, on the following terms and conditions:

1. That, respondent first meet all statutory and regulatory requirements for the issuance of a license to \_\_\_\_\_.
2. That, following the satisfaction of #1, respondent's license be issued and immediately revoked, the order of revocation being stayed and respondent placed on probation for a period of \_\_\_\_\_ years on the following terms and conditions:

## **Surrender**

Respondent surrenders license number \_\_\_\_\_ as of the effective date of this decision. Respondent shall relinquish his or her wall license and pocket renewal license to the board within 10 days of the effective date of this decision. Respondent may not reapply for any license, permit, or registration from the board for three years from the effective date of this decision. Respondent stipulates that should he or she apply for any license from the board on or after the effective date of this decision, all allegations set forth in the [accusation or petition to revoke probation] shall be deemed to be true. Respondent shall satisfy all requirements applicable to that license as of the date the application is submitted to the board, including, but not limited to taking and passing the California Pharmacist Licensure Examination prior to the issuance of a new license. Respondent is obligated to report this surrender as disciplinary action.

Respondent further stipulates that he or she shall reimburse the board for its costs of investigation and prosecution in the amount of \$\_\_\_\_\_ within \_\_\_\_\_ days of the effective date of this decision.

**Option:** Respondent stipulates that should he or she apply for any license from the board on or after the effective date of this decision the investigation and prosecution costs in the amount of \$\_\_\_\_\_ shall be paid to the board prior to issuance of the new license.

**Public Reprimand**

It is hereby ordered that a public reprimand be issued against licensee, \_\_\_\_\_.

**Adoption of Stipulation**

It is understood by respondent that, in deciding whether to adopt this stipulation, the board may receive oral and written communication from its staff and the Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the board or other persons from future participation in this or any other matter affecting respondent. In the event this settlement is not adopted by the board, the stipulation will not become effective and may not be used for any purpose, except this paragraph, which shall remain in effect.

## **STANDARD CONDITIONS - To be included in all probation decisions/orders.**

Term Number: (Numbers reflect actual term and condition numbers as listed beginning with page \_\_\_\_\_.)

1. Obey all Laws
2. Reporting to the Board
3. Interview with the Board
4. Cooperation with Board Staff
5. Continuing Education
6. Notice to Employers
7. No Preceptorships, Supervision of Interns, Being Pharmacist-In-Charge (PIC), or Serving as a Consultant
8. Reimbursement of Board Costs
9. Probation Monitoring Costs
10. Status of License
11. License Surrender While on Probation/Suspension
12. Notification of Employment/Mailing Address Change
13. Tolling of Probation
14. Violation of Probation
15. Completion of Probation

## **OPTIONAL CONDITIONS**

Term Number: (Numbers reflect actual term and condition numbers as listed beginning with page \_\_\_\_\_.)

1. Actual Suspension
2. Restricted Practice
3. Examination
4. Mental Health Examination
5. Psychotherapy
6. Medical Evaluation
7. Rehabilitation Program
8. Random Drug Screening
9. Abstain from Drugs and Alcohol Use
10. Community Service Program
11. Restitution
12. Remedial Education
13. Pharmacy Intern Experience
14. Supervised Practice
15. No Supervision
16. No Ownership of Premises
17. Separate File of Records
18. Report of Controlled Substances
19. No Access to Controlled Substances
20. Criminal Probation/Parole Reports
21. Consultant for Owner or Pharmacist-In-Charge
22. Tolling of Suspension

## **STANDARD CONDITIONS: TO BE INCLUDED IN ALL PROBATIONS**



## **1. Obey All Laws**

Respondent shall obey all state and federal laws and regulations substantially related to or governing the practice of pharmacy.

Respondent shall report any of the following occurrences to the board, in writing, within 72 hours of such occurrence:

- an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws
- a plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment
- a conviction of any crime
- discipline, citation, or other administrative action filed by any state and federal agency which involves respondent's \_\_\_\_\_ license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling or distribution or billing or charging for of any drug, device or controlled substance.

## **2. Reporting to the Board**

Respondent shall report to the board quarterly. The report shall be made either in person or in writing, as directed. Respondent shall state under penalty of perjury whether there has been compliance with all the terms and conditions of probation. If the final probation report **is not** made as directed, probation shall be extended automatically until such time as the final report is made and accepted by the board.

## **3. Interview with the Board**

Upon receipt of reasonable notice, respondent shall appear in person for interviews with the board upon request at various intervals at a location to be determined by the board. Failure to appear for a scheduled interview without prior notification to board staff shall be considered a violation of probation.

## **4. Cooperation with Board Staff**

Respondent shall cooperate with the board's inspectional program and in the board's monitoring and investigation of respondent's compliance with the terms and conditions of his or her probation. Failure to comply shall be considered a violation of probation.

## **5. Continuing Education**

Respondent shall provide evidence of efforts to maintain skill and knowledge as a pharmacist as directed by the board.

## **6. Notice to Employers**

Respondent shall notify all present and prospective employers of the decision in case number \_\_\_\_\_ and the terms, conditions and restrictions imposed on respondent by the decision. Within 30 days of the effective date of this decision, and within 15 days of respondent undertaking new employment, respondent shall cause his or her direct supervisor, pharmacist-in-charge and/or owner to report to the board in writing acknowledging the employer has read the decision in case number \_\_\_\_\_.

If respondent works for or is employed by or through a pharmacy employment service, respondent must notify the direct supervisor, pharmacist-in-charge, and/or owner at every pharmacy of the and terms and conditions of the decision in case number \_\_\_\_\_ in advance of the respondent commencing work at each pharmacy.

"Employment" within the meaning of this provision shall include any full-time, part-time, temporary, relief or pharmacy management service as a pharmacist, whether the respondent is considered an employee or independent contractor.

## **7. No Preceptorships, Supervision of Interns, Being Pharmacist-in-Charge (PIC), or Serving as a Consultant**

Respondent shall not supervise any intern pharmacist or perform any of the duties of a preceptor, nor shall respondent be the pharmacist-in-charge of any entity licensed by the board unless otherwise specified in this order.

## **8. Reimbursement of Board Costs**

Respondent shall pay to the board its costs of investigation and prosecution in the amount of \$ \_\_\_\_\_. Respondent shall make said payments as follows: \_\_\_\_\_.

~~If respondent fails to pay the costs as specified by the board on or before the date(s) determined by the board, the board shall, without affording the respondent notice and the opportunity to be heard, revoke probation and carry out the disciplinary order that was stayed. The filing of bankruptcy by respondent shall not relieve respondent of his or her responsibility to reimburse the board its costs of investigation and prosecution.~~

## **9. Probation Monitoring Costs**

Respondent shall pay the costs associated with probation monitoring as determined by the board each and every year of probation. Such costs shall be payable to the board at the end of each year of probation. Failure to pay such costs shall be considered a violation of probation.

## **10. Status of License**

Respondent shall, at all times while on probation, maintain an active current license with the board, including any period during which suspension or probation is tolled.

If respondent's license expires or is cancelled by operation of law or otherwise, upon renewal or reapplication, respondent's license shall be subject to all terms and conditions of this probation not previously satisfied.

## **11. License Surrender while on Probation/Suspension**

Following the effective date of this decision, should respondent cease practice due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, respondent may tender his or her license to the board for surrender. The board shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent will no longer be subject to the terms and conditions of probation.

Upon acceptance of the surrender, respondent shall relinquish his or her pocket license to the board within 10 days of notification by the board that the surrender is accepted. Respondent may not reapply for any license from the board for three years from the effective date of the surrender. Respondent shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the board.

## **12. Notification of Employment/Mailing Address Change**

Respondent shall notify the board in writing within 10 days of any change of employment. Said notification shall include the reasons for leaving and/or the address of the new employer, supervisor or owner and work schedule if known. Respondent shall notify the board in writing within 10 days of a change in name, mailing address or phone number.

## **13. Tolling of Probation**

Should respondent, regardless of residency, for any reason cease practicing pharmacy for a minimum of \_\_\_\_\_ hours per calendar month in California, respondent must notify the board in writing within 10 days of cessation of the practice of pharmacy or the resumption of the practice of pharmacy. Such periods of time shall not apply to the reduction of the probation period. It is a violation of probation for respondent's probation to remain tolled pursuant to the provisions of this condition for a period exceeding three years.

"Cessation of practice" means any period of time exceeding 30 days in which respondent is not engaged in the practice of pharmacy as defined in Section 4052 of the Business and Professions Code.

**Option:** Respondent shall work at least 40 hours in each calendar month as a pharmacist and at least an average of 80 hours per month in any six consecutive months. Failure to do so will be a violation of probation. If respondent has not complied with this condition during the probationary term, and respondent has presented sufficient documentation of his or her good faith efforts to comply with this condition, and if no other conditions have been violated, the board, in its discretion, may grant an extension of respondent's probation period up to one year without further hearing in order to comply with this condition.

## **14. Violation of Probation**

If respondent violates probation in any respect, the board, after giving respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order which was stayed. If a petition to revoke probation or an accusation is filed against respondent during probation, the board shall have continuing jurisdiction and the period of probation shall be extended, until the petition to revoke probation or accusation is heard and decided.

If a respondent has not complied with any term or condition of probation, the board shall have continuing jurisdiction over respondent, and probation shall automatically be extended until all terms and conditions have been satisfied or the board has taken other action as deemed appropriate to treat the failure to comply as a violation of probation, to terminate probation, and to impose the penalty which was stayed.

## **15. Completion of Probation**

Upon successful completion of probation, respondent's license will be fully restored.

## **OPTIONAL CONDITIONS OF PROBATION**

### **1. Actual Suspension**

As part of probation, respondent is suspended from the practice of pharmacy for \_\_\_\_\_ beginning the effective date of this decision.

During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, **or** be a consultant to any licensee of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled substances.

Respondent shall not engage in any activity that requires the professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or an exemptee for any entity licensed by the board. Subject to the above restrictions, respondent may continue to own or hold an interest in any pharmacy in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.

### **2. Restricted Practice** (Where this condition is imposed, optional condition #7 should also be imposed)

Respondent's practice of pharmacy shall be restricted to [specify setting or type of practice] for the first \_\_\_\_\_ years of probation. Respondent shall submit proof satisfactory to the board of compliance with this term of probation.

### **3. Examination**

Respondent shall take and pass the \_\_\_\_\_ section(s) of the pharmacist licensure examination as scheduled by the Board after the effective date of this decision at respondent's own expense. If respondent fails to take and pass the examination within six months after the effective of this decision, respondent shall be suspended from practice upon written notice. Respondent shall not resume the practice of pharmacy until he or she takes and passes the same section(s) at a subsequent examination and is notified, in writing, that he or she has passed the examination.

During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, **or** be a consultant to any licensee of the Board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and controlled substances.

Respondent shall not engage in any activity that requires the professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or an exemptee for any entity licensed by the board. Subject to the above restrictions, respondent may continue to own or hold an interest in any pharmacy in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.

Failure to take and pass the examination within one year of the effective date of this decision shall be considered a violation of probation. Suspension and probation shall be extended until respondent passes the examination and is notified in writing.

**4. Mental Health Examination** (Appropriate for those cases where evidence demonstrates that mental illness or disability was a contributing cause of the violations.)

Within 30 days of the effective date of this decision, and on a periodic basis as may be required by the board, respondent shall undergo, at his or her own expense, psychiatric evaluation(s) by a board-appointed or board-approved psychiatrist or psychologist. Respondent shall sign a release authorizing the evaluator to furnish the board with a current diagnosis and a written report regarding the respondent's judgment and ability to function independently as a pharmacist with safety to the public. Respondent shall comply with all the recommendations of the evaluator if directed by the board.

If the psychiatrist or psychotherapist recommends, and the board directs, respondent shall undergo psychotherapy. Respondent shall, within 30 days of written notice of the need for psychotherapy, submit to the board for its prior approval, the recommended program for ongoing psychotherapeutic care. Respondent shall undergo and continue psychotherapy, at respondent's own expense, until further notice from the board. Respondent shall have the treating psychotherapist or psychiatrist submit written quarterly reports to the board as directed. If respondent is determined to be unable to practice safely, upon notification, respondent shall immediately cease practice and shall not resume practice until notified by the board.

**Option:** Commencing on the effective date of this decision, respondent shall not engage in the practice of pharmacy until notified in writing by the board that respondent is psychologically fit to practice pharmacy safely, and the board approves said recommendation.

During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, **or** be a consultant to any licensee of the

board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and controlled substances.

Respondent shall not engage in any activity that requires the professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or an exemptee for any entity licensed by the board. Subject to the above restrictions, respondent may continue to own or hold an interest in any pharmacy in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.

**Option:** If recommended by the psychiatrist or psychotherapist and approved by the board, respondent shall be suspended from practicing pharmacy until the treating psychotherapist recommends, in writing, stating the basis therefor, that respondent can safely practice pharmacy, and the board approves said recommendation.

During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, **or** be a consultant to any licensee of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and controlled substances. Respondent shall not resume practice until notified by the board.

Respondent shall not engage in any activity that requires the professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or an exemptee for any entity licensed by the board. Subject to the above restrictions, respondent may continue to own or hold an interest in any pharmacy in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.

**5. Psychotherapy** (Appropriate for those cases where the evidence demonstrates mental illness or alcohol or drug abuse was involved in the violations.)

Within 30 days of the effective date of this decision, respondent shall submit to the board, for its prior approval, the name and qualifications of a licensed mental health practitioner of respondent's choice. Should respondent, for any reason, cease treatment with the approved licensed mental health practitioner, respondent shall notify the board immediately and, within 30 days of ceasing treatment, submit the name of a replacement psychotherapist or licensed mental health practitioner of respondent's choice to the board for its prior approval.

Therapy shall be at least once a week unless otherwise determined by the board. Respondent shall provide the therapist with a copy of the board's accusation and decision no later than the first therapy session. Respondent shall take all necessary steps to ensure that the treating therapist submits written quarterly reports to the board concerning respondent's fitness to practice, progress in treatment, and to provide such other information as may be required by the board. If the treating therapist finds that respondent cannot practice safely or independently, the therapist shall notify the board immediately by telephone and followed up by written letter within three working days.

Upon approval of the licensed mental health practitioner, respondent shall undergo and continue treatment with that therapist and at respondent's own expense, until the board deems that no further psychotherapy is necessary. The board may require respondent to undergo a mental health evaluation(s) by a board-appointed or board-approved licensed mental health practitioner.

**6. Medical Evaluation** (Appropriate for those cases where the evidence demonstrates that the respondent has had a physical problem/disability which was a contributing cause of the violations and which may affect the respondent's ability to practice.)

Within 30 days of the effective date of this decision, and on a periodic basis thereafter as may be required by the board, respondent shall undergo a medical evaluation, at respondent's own expense, by a board-appointed or board-approved physician who shall furnish a medical report to the board.

If respondent is required by the board to undergo medical treatment, respondent shall, within 30 days of written notice from the board, submit to the board for its prior approval, the name and qualifications of a physician of respondent's choice. Upon board approval of the treating physician, respondent shall undergo and continue medical treatment, with that physician and at respondent's own expense, until further notice from the board. Respondent shall have the treating physician submit written quarterly reports to the board. Should respondent, for any reason, cease treatment with the approved physician, respondent shall notify the board immediately and, within 30 days of ceasing treatment, submit the name of a replacement physician of respondent's choice to the board for its prior approval.

**Option:** Upon the effective date of this decision, respondent shall not engage in the practice of pharmacy until notified in writing by the board of its determination that respondent is medically fit to practice safely and independently, and the board approves said recommendation.

During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, **or** be a consultant to any licensee of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs or controlled substances.

Respondent shall not engage in any activity that requires the professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or an exemptee for any entity licensed by the board. Subject to the above restrictions, respondent may continue to own or hold an interest in any pharmacy in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.

**Option:** If recommended by the physician and approved by the board, respondent shall be suspended from practicing pharmacy until the treating physician recommends, in writing, stating the basis therefor, that respondent can safely and independently resume the practice of a pharmacist, and the board approves said recommendation. Respondent shall not resume practice until notified by the board.

During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, **or** be a consultant to any licensee of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and controlled substances.

Respondent shall not engage in any activity that requires the professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or an exemptee for any entity licensed by the board. Subject to the above restrictions, respondent may continue to own or hold an interest in any pharmacy in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.

**7. Rehabilitation Program - Pharmacists Recovery Program (PRP)** (Appropriate for chemical dependency (alcohol, drugs), or psychiatric disorders (mental illness, emotional disturbance, gambling))

Within 30 days of the effective date of this decision, respondent shall contact the Pharmacists Recovery Program for evaluation and shall successfully participate in and complete the treatment contract and any subsequent addendums as recommended and provided by the PRP and as approved by the board. The costs for PRP participation shall be borne by the respondent.

If respondent is currently enrolled in the PRP, said participation is now mandatory and is no longer considered a self-referral under Business and Professions Code section 4363, as of the effective date of this decision. Respondent shall successfully participate in and complete his or her current contract and any subsequent addendums with the PRP. Probation shall be automatically extended until respondent successfully completes his or her treatment contract. Any person terminated from the program shall be automatically suspended upon notice by the board. Respondent may not resume the practice of pharmacy until notified by the board in writing. The board shall retain jurisdiction to institute action to terminate probation for any violation of this term.

**8. Random Drug Screening** (If PRP provision is required, this term is also to be included to allow for continued fluid monitoring by the Board in cases where a respondent successfully complete the PRP before completion of the probation period; terms also appropriate for those cases where the evidence demonstrates that the respondent may have a problem with chemical dependency (drugs, alcohol) but where the PRP is not required.)

Respondent, at his or her own expense, shall participate in random testing, including but not limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or a drug screening program approved by the board. The length of time shall be for the entire probation period and the frequency of testing will be determined by the board. At all times respondent shall fully cooperate with the board, and shall, when directed, submit to such tests and samples for the detection of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances. Failure to submit to testing as directed shall constitute a violation of probation. Any confirmed positive drug test shall result in the immediate suspension of practice by respondent. Respondent may not resume the practice of pharmacy until notified by the board



in writing.

## **9. Abstain from Drugs and Alcohol Use**

Respondent shall completely abstain from the possession or use of alcohol, controlled substances, dangerous drugs and their associated paraphernalia except when the drugs are lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon request of the board, respondent shall provide documentation from the licensed practitioner that the prescription was legitimately issued and is a necessary part of the treatment of the respondent. ~~Respondent shall ensure that he or she is not in the presence of or in the same physical location as individuals who are using illicit substances even if respondent is not personally ingesting the drugs.~~

## **10. Community Services Program**

Within 60 days of the effective date of this decision, respondent shall submit to the board, for its prior approval, a community service program in which respondent shall provide free health-care related services on a regular basis to a community or charitable facility or agency for at least \_\_\_\_\_ hours per \_\_\_\_\_ for the first \_\_\_\_\_ of probation.

## **11. Restitution** (For Pharmacist and Premises) – (Appropriate in cases of drug diversion, theft, fraudulent billing, or patient harm resulting from negligence or incompetence.)

Within \_\_\_\_\_ days of the effective date of this decision, respondent shall pay restitution to \_\_\_\_\_ in the amount of \$ \_\_\_\_\_.

## **12. Remedial Education**

Within [30, 60, 90] days of the effective date of this decision, respondent shall submit to the board, for its prior approval, an appropriate program of remedial education related to [the grounds for discipline]. The program of remedial education shall consist of at least \_\_\_\_\_ hours, which shall be completed within \_\_\_\_\_ months/year at respondent's own expense. The period of probation shall be extended until such remedial education is successfully completed and written proof, in a form acceptable to the board, is provided to the board. All remedial education shall be in addition to continuing education courses used for license renewal purposes. Failure to complete the remedial education as set forth hereinabove is grounds for the filing of a petition to revoke probation.

Following the completion of each course, the board may administer an examination to test the respondent's knowledge of the course.

**Option:** Respondent shall be restricted from the practice of [areas where a serious deficiency has been identified] until the remedial education program has been successfully completed.

## **13. Pharmacy Intern Experience** (For Intern Pharmacist)

Within 90 days of the effective date of this decision, respondent shall submit to the board for its prior approval, a pharmacy intern training program consisting of \_\_\_\_\_ hours in community and/or institutional pharmacy as directed. Respondent shall successfully complete the intern hours within the first year of probation and shall submit a "Pharmacy Intern Experience Affidavit" and "Pharmacy Intern Hours Affidavit" signed by a currently licensed pharmacist not

on probation with the board.

#### **14. Supervised Practice**

Respondent shall practice only under the supervision of a pharmacist not on probation with the board. Respondent shall not practice until the supervisor is approved by the board. The supervision shall be, as required by the board, either:

Continuous - 75% to 100% of a work week

Substantial - At least 50% of a work week

Partial - At least 25% of a work week

Daily Review - Supervisor's review of probationer's daily activities within 24 hours

Within 30 days of the effective date of this decision, respondent shall have his or her supervisor submit notification to the board in writing stating the supervisor has read the decision in case number \_\_\_\_\_ and is familiar with the level of supervision as determined by the board.

If respondent changes employment, respondent shall have his or her new supervisor, within 15 days after employment commences, submit notification to the board in writing stating the direct supervisor and pharmacist-in-charge have read the decision in case number \_\_\_\_\_ and is familiar with the level of supervision as determined by the board.

Within 10, days of leaving employment, respondent shall notify the board in writing.

#### **15. No Supervision**

Respondent shall not supervise any ancillary personnel, including, but not limited to, registered pharmacy technicians or exemptees, of any entity licensed by the board.

## **16. No Ownership of Premises**

Respondent shall not own, have any legal or beneficial interest in, or serve as a manager, administrator, member, officer, director, associate, or partner of any business, firm, partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell or transfer any legal or beneficial interest in any entity licensed by the board within 90 days following the effective date of this decision and shall immediately thereafter provide written proof thereof to the board.

**Option:** Respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a manager, administrator, member, officer, director, trustee, associate, or partner of any additional business, firm, partnership, or corporation licensed by the board. If respondent currently owns or has any legal or beneficial interest in, or serves as a manager, administrator, member, officer, director, associate, or partner of any business, firm, partnership, or corporation currently or hereinafter licensed by the board, respondent may continue to serve in such capacity or hold that interest, but only to the extent of that position or interest as of the effective of this decision.

## **17. Separate File of Records**

Respondent shall maintain a separate file of all records pertaining to the acquisition or disposition of all controlled substances.

## **18. Report of Controlled Substances**

Respondent shall submit quarterly reports to the board the total acquisition and disposition of such controlled substances as the board may direct. Respondent shall specify the manner of disposition (e.g., by prescription, due to burglary, etc.) or acquisition (e.g., from a manufacturer, from another retailer, etc.) of such controlled substances. Respondent shall report on a quarterly basis or as directed by the board. The report shall be delivered or mailed to the board no later than 10 days following the end of the reporting period.

## **19. No Access to Controlled Substances**

Respondent shall not order, possess, dispense or otherwise have access to any controlled substance(s) in Schedule II, III, IV or V (Health and Safety Code sections 11055-11058 inclusive). Respondent shall not order, receive or retain any triplicate prescription forms.

## **20. Criminal Probation/Parole Reports**

Respondent shall provide a copy of the conditions of any criminal probation/parole to the board, in writing, within 10 days of the issuance or modification of those conditions. Respondent shall provide the name of his or her probation/parole officer to the board, in writing, within 10 days after that officer is designated or a replacement for that officer is designated. Respondent shall provide a copy of all criminal probation/parole reports to the board within 10 days after respondent receives a copy of such a report.

## **21. Consultant for Owner or Pharmacist-in-Charge**

**(Option #1 for pharmacist owners - primarily intended for appropriate cases where the respondent is the owner and pharmacist of his or her own pharmacy, the standard language should be used in most cases.)**

Respondent shall not supervise any intern pharmacist, perform any of the duties of a preceptor or serve as a consultant to any entity licensed by the board. Respondent may be a pharmacist-in-charge. However, respondent shall retain an independent consultant at his or her own expense who shall be responsible for reviewing pharmacy operations on a [monthly/quarterly] basis for compliance by respondent with state and federal laws and regulations governing the practice of pharmacy and for compliance by respondent with the obligations of a pharmacist-in-charge. The consultant shall be a pharmacist licensed by and not on probation with the board and whose name shall be submitted to the board, for its prior approval, within 30 days of the effective date of this decision. Respondent shall not be a pharmacist-in-charge at more than one pharmacy or any pharmacy of which he or she is not the sole owner.

**(Option #2 - appropriate for pharmacists who are not pharmacy owners, but who wish, because of their current employment, to remain as the pharmacist-in-charge, and have provided documentation mitigating evidence to warrant this option.)**

Respondent shall not supervise any intern pharmacist, perform the duties of a preceptor or serve as a consultant to any entity licensed by the board. In the event that the respondent is currently the pharmacist-in-charge of a pharmacy, the pharmacy shall retain an independent consultant at its own expense who shall be responsible for reviewing pharmacy operations on a [monthly/quarterly] basis for compliance by respondent with state and federal laws and regulations governing the practice of pharmacy and for compliance by respondent with the obligations of a pharmacist-in-charge. The consultant shall be a pharmacist licensed by and not on probation with the board and whose name shall be submitted to the board for its prior approval within 30 days of the effective date of this decision. Respondent shall not be a pharmacist-in-charge at more than one pharmacy or at any pharmacy of which he or she is not the current PIC. The board may, in case of an employment change by respondent or for other reasons as deemed appropriate by the board, preclude the respondent from acting as a pharmacist-in-charge.

## **22. Tolling of Suspension**

If respondent leaves California to reside or practice outside this state, for any period exceeding 10 days (including vacation), respondent must notify the board in writing of the dates of departure and return. Periods of residency or practice outside the state - or any absence exceeding a period of 10 days shall not apply to the reduction of the suspension period.

Respondent shall not practice pharmacy upon returning to this state until notified by the board that the period of suspension has been completed.

## **PHARMACY TECHNICIAN**

The board files cases against pharmacy technicians where the violation(s) involve significant misconduct on the part of the licensee. The board believes that revocation is the appropriate penalty when grounds for discipline are found to exist. Grounds for discipline include, but are not limited to the following violation(s) of law(s) involving:

- Possession of dangerous drugs and/or controlled substances
- Use of dangerous drugs and/or controlled substances
- Possession for sale of dangerous drugs and/or controlled substances
- Personal misuse of drugs or alcohol

If revocation is not imposed, the board recommends a minimum of a Category III level of discipline be imposed on the pharmacy technician. This would include suspension and probation.

In addition, a pharmacy technician would be required to obtain certification from the Pharmacy Technician Certification Board (PTCB) prior to resuming work as a pharmacy technician. The board believes that certification prior to resuming work is always warranted in cases where a pharmacy technician registration is disciplined but not revoked.

Pharmacy technicians are issued a registration, based on minimal education or training requirements. No examination is required for issuance of the registration. Pharmacy technicians are not independent practitioners and must work under the supervision of a pharmacist. To place a pharmacy technician on probation places an additional burden on the pharmacist (who may or may not be on probation) to ensure that the respondent pharmacy technician complies with the terms and conditions of his or her probation.

## **TERMS OF PROBATION – PHARMACY TECHNICIAN**

A minimum three-year probation period has been established by the board as appropriate in most cases where probation is imposed. A minimum five-year probation period has been established by the board as appropriate where self-administration or diversion of controlled substances is involved. Terms and conditions are imposed to provide consumer protection and to allow the probationer to demonstrate rehabilitation. A suspension period may also be required as part of the probation order. The board prefers that any stayed order be for revocation rather than for some period of suspension.

Probation conditions are divided into two categories: (1) standard conditions that shall appear in **all** probation cases, and (2) optional conditions that depend on the nature and circumstances of a particular case. These conditions may vary depending on the nature of the offense(s).

The board may also impose any other condition appropriate to the case where the condition is not contrary to public policy.

## **CATEGORY OF VIOLATIONS AND RECOMMENDED PENALTIES**

### **CATEGORY III - Penalty**

Minimum: Revocation; Revocation stayed, 90 days actual suspension, three years probation. All standard terms and conditions shall be included and optional terms and conditions as appropriate.

Maximum: Revocation

Applies to all applicable statutes and regulations

## **MODEL DISCIPLINARY LANGUAGE – PHARMACY TECHNICIAN**

The following standardized language shall be used in every decision where the order of condition is imposed.

### **Revocation - Single Cause**

Technician registration number \_\_\_\_\_, issued to respondent \_\_\_\_\_ is revoked. Respondent shall relinquish his or her pocket technician registration to the board within 10 days of the effective date of this decision. Respondent may not petition the board for reinstatement of his or her revoked technician registration for three years from the effective date of this decision.

A condition of reinstatement shall be that the respondent is certified by the Pharmacy Technician Certification Board (PTCB) and provides satisfactory proof of certification to the board.

Respondent shall pay to the board its costs of investigation and prosecution in the amount of \$\_\_\_\_\_ within 15 days of the effective date of this decision.

**Option:** Upon reinstatement of his or her technician registration respondent shall reimburse the board for its costs of investigation and prosecution in the amount of \$\_\_\_\_\_, and said amount shall be paid in full prior to the reinstatement of his or her technician registration. If the respondent fails to pay the amount specified, his or her technician registration shall remain revoked.

### **Revocation - Multiple Causes**

Technician registration number \_\_\_\_\_, issued to respondent \_\_\_\_\_ is revoked pursuant to Determination of Issues \_\_\_\_\_, separately and together. Respondent shall relinquish his or her pocket technician registration to the board within 10 days of the effective date of this decision. Respondent may not petition the board for reinstatement of his or her revoked technician registration for three years from the effective date of this decision. A condition of reinstatement shall be that the respondent is certified by the Pharmacy Technician Certification Board (PTCB) and provides satisfactory proof of certification to the board.

Respondent shall pay to the board its costs of investigation and prosecution in the amount of \$\_\_\_\_\_ within 15 days of the effective date of this decision.

**Option:** Upon reinstatement of his or her technician registration respondent shall reimburse the board for its costs of investigation and prosecution in the amount of \$\_\_\_\_\_, and said amount shall be paid in full prior to the reinstatement of his or her technician registration. If the

respondent fails to pay the amount specified, his or her technician registration shall remain revoked.

### **Suspension - Single Cause**

Technician registration number \_\_\_\_\_, issued to respondent \_\_\_\_\_ is suspended for a period of \_\_\_\_\_.

### **Suspension - Multiple Causes**

Technician registration number \_\_\_\_\_, issued to respondent is suspended for a period of \_\_\_\_\_ pursuant to Determination of Issues \_\_\_\_\_, separately and together. All suspensions shall run concurrently. Respondent is suspended from the duties of a pharmacy technician for \_\_\_\_\_ beginning the effective date of this decision.

### **Standard Stay/Probation Order**

Technician registration number \_\_\_\_\_ issued to \_\_\_\_\_ is revoked; however, revocation is stayed and respondent is placed on probation for \_\_\_\_\_ years upon the following terms and conditions:

### **Surrender**

Respondent surrenders technician registration number \_\_\_\_\_ as of the effective date of this decision. Respondent shall relinquish his or her pocket technician registration to the board within 10 days of the effective date of this decision. Respondent may not reapply for any technician registration of the board for three years from the effective date of this decision. Respondent stipulates that should respondent apply for any technician registration from the board on or after the effective date of this decision, all allegations set forth in the [accusation or petition to revoke probation] shall be deemed to be true. Should respondent apply for any new license, respondent will be subject to all terms and conditions not previously satisfied.

Respondent shall meet all requirements applicable to that technician registration as of the date the application is submitted to the board, including, but not limited to certification by a nationally recognized body prior to the issuance of a new registration.

Respondent further stipulates that he or she shall reimburse the board for its costs of investigation and prosecution in the amount of \$\_\_\_\_\_ within \_\_\_\_\_ days of the effective date of this decision.

**Option:** Respondent stipulates that should he or she apply for any technician registration from the board on or after the effective date of this decision that investigation and prosecution costs in the amount of \$\_\_\_\_\_ shall be paid to the board prior to issuance of the technician registration.

### **Adoption of Stipulation**

It is understood by respondent that, in deciding whether to adopt this stipulation, the board may receive oral and written communication from its staff and the Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the board or other persons from future participation in this or any other matter affecting respondent. In the event this settlement is not adopted by the board, the stipulation will not become effective and may not be used for any purpose, except this paragraph, which shall remain in effect.



## **STANDARD CONDITIONS – To be included in all probation decisions/orders.**

Term Number: (Numbers reflect actual term and condition numbers as listed beginning with page \_\_\_\_\_.)

1. Certification Prior to Resuming Work
2. Obey all Laws
3. Reporting to the Board
4. Interview with the Board
5. Cooperation with Board Staff
6. Notice to Employers
7. Reimbursement of Board Costs
8. Probation Monitoring Costs
9. Status of License
10. Notification of Employment/Mailing Address Change
11. Tolling of Probation
12. Violation of Probation
13. Completion of Probation
14. License Surrender While on Probation/Suspension

## **OPTIONAL CONDITIONS**

Term Number: (Numbers reflect actual term and condition numbers as listed beginning with page \_\_\_\_\_.)

1. Actual Suspension
2. No Ownership of Licensed Premises
3. Attend Substance Abuse Recovery Relapse Prevention and Support Group
4. Random Drug Screening
5. Work Site Monitor
6. Notification of Departure
7. Abstain from Drugs and Alcohol Use
8. Tolling of Suspension

## **STANDARD CONDITIONS: TO BE INCLUDED IN ALL PROBATIONS**

### **1. Certification Prior to Resuming Work**

Respondent shall be suspended from working as a pharmacy technician until he or she is certified by the Pharmacy Technician Certification Board (PTCB) and provides satisfactory proof of certification to the board.

During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not do any act involving drug selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent manage, administer, **or** be a consultant to any licensee of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled substances.

Subject to the above restrictions, respondent may continue to own or hold an interest in any entity licensed by the board in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.

### **2. Obey All Laws**

Respondent shall obey all state and federal laws and regulations substantially related to or governing the practice of pharmacy.

### **3. Reporting to the Board**

Respondent shall report to the board quarterly. The report shall be made either in person or in writing, as directed. Respondent shall state under penalty of perjury whether there has been compliance with all the terms and conditions of probation. If the final probation report is not made as directed, probation shall be extended automatically until such time as the final report is made and accepted by the board.

### **4. Interview with the Board**

Upon receipt of reasonable notice, respondent shall appear in person for interviews with the board upon request at various intervals at a location to be determined by the board. Failure to appear for a scheduled interview without prior notification to board staff shall be considered a violation of probation.

### **5. Cooperation with Board Staff**

Respondent shall cooperate with the board's inspectional program and in the board's monitoring and investigation of respondent's compliance with the terms and conditions of his or her probation. Failure to comply shall be considered a violation of probation.

## **6. Notice to Employers**

Respondent shall notify all present and prospective employers of the decision in case number \_\_\_\_\_ and the terms, conditions and restrictions imposed on respondent by the decision. Within 30 days of the effective date of this decision, and within 15 days of respondent undertaking new employment, respondent shall cause his or her employer to report to the board in writing acknowledging the employer has read the decision in case number \_\_\_\_\_.

If respondent works for or is employed by or through a pharmacy employment service, respondent must notify the pharmacist-in-charge and/or owner at every pharmacy of the terms and conditions of the decision in case number \_\_\_\_\_ in advance of the respondent commencing work at each pharmacy.

"Employment" within the meaning of this provision shall include any full-time, part-time, temporary or relief service or pharmacy management service as a pharmacy technician, whether the respondent is considered an employee or independent contractor.

## **7. Reimbursement of Board Costs**

Respondent shall pay to the board its costs of investigation and prosecution in the amount of \$\_\_\_\_\_. Respondent shall make said payments as follows: \_\_\_\_\_.

~~If respondent fails to pay the costs as specified by the board and on the date(s) determined by the board, the board shall, without affording the respondent notice and the opportunity to be heard, revoke probation and carry out the disciplinary order that was stayed. The filing of bankruptcy by respondent shall not relieve respondent of his or her responsibility to reimburse the board its costs of investigation and prosecution.~~

## **8. Probation Monitoring Costs**

Respondent shall pay the costs associated with probation monitoring as determined by the board each and every year of probation. Such costs shall be payable to the board at the end of each year of probation. Failure to pay such costs shall be considered a violation of probation.

## **9. Status of License**

Respondent shall, at all times while on probation, maintain an active current technician registration/certification with the board, including any period during which suspension or probation is tolled.

If respondent's technician registration/certification expires or is cancelled by operation of law or otherwise, upon renewal or reapplication, respondent's license shall be subject to all terms and conditions of this probation not previously satisfied.

## **10. Notification of Employment/Mailing Address Change**

Respondent shall notify the board in writing within 10 days of any change of employment. Said notification shall include the reasons for leaving and/or the address of the new employer, supervisor or owner and work schedule, if known. Respondent shall notify the board in writing within 10 days of a change in name, mailing address or phone number.

## **11. Tolling of Probation**

It is a violation of probation for respondent to work less than \_\_\_\_\_ hours per month as a pharmacy technician/exemptee. Should respondent, regardless of residency, for any reason cease practicing as a pharmacy technician or an exemptee in California, respondent must notify the board in writing within 10 days of cessation of practice or the resumption of the practice. Such periods of time shall not apply to the reduction of the probation period. It is a violation of probation for respondent's probation to remain tolled pursuant to the provisions of this condition for a period exceeding three consecutive years.

"Cessation of practice" means any period of time exceeding 30 days in which respondent is not engaged in the practice of a pharmacy technician as defined in section \_\_\_\_\_ of the Business and Professions Code.

## **12. Violation of Probation**

If respondent violates probation in any respect, the board, after giving respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order which was stayed. If a petition to revoke probation or an accusation is filed against respondent during probation, the board shall have continuing jurisdiction, and the period of probation shall be extended, until the petition to revoke probation or accusation is heard and decided.

If a respondent has not complied with any term or condition of probation, the board shall have continuing jurisdiction over respondent, and probation shall automatically be extended until all terms and conditions have been satisfied or the board has taken other action as deemed appropriate to treat the failure to comply as a violation of probation, to terminate probation, and to impose the penalty which was stayed.

## **13. Completion of Probation**

Upon successful completion of probation, respondent's technician registration will be fully restored.

## **14. License Surrender While on Probation/Suspension**

Following the effective date of this decision, should respondent cease practice due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, respondent may tender his or her license to the board for surrender. The board shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent will no longer be subject to the terms and conditions of probation.

Upon acceptance of the surrender, respondent shall relinquish his or her pocket license to the board within 10 days of notification by the board that the surrender is accepted. Respondent may not reapply for any license from the board for three years from the effective date of the surrender. Respondent shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the board.

## **OPTIONAL CONDITIONS OF PROBATION**

### **1. Actual Suspension**

As part of probation, respondent is suspended from the duties of a pharmacy technician for \_\_\_\_\_ beginning the effective date of this decision.

During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not do any act involving drug selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent manage, administer, **or** be a consultant to any licensee of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled substances.

Subject to the above restrictions, respondent may continue to own or hold an interest in any entity licensed by the board in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.

During suspension, respondent shall not perform any of the duties of a pharmacy technician as provided by Section 1793.2 of the California Code of Regulations.

### **2. No Ownership of Licensed Premises**

Respondent shall not own, have any legal or beneficial interest in, or serve as a manager, administrator, member, officer, director, associate, or partner of any business, firm, partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell or transfer any legal or beneficial interest in any entity licensed by the board within 90 days following the effective date of this decision and shall immediately thereafter provide written proof thereof to the board.

**Option:** Respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a manager, administrator, member, officer, director, associate, or partner of any additional business, firm, partnership, or corporation licensed by the board. If respondent owns or has any legal or beneficial interest in, or serve as a manager, administrator, member, officer, director, associate, or partner of any business, firm, partnership, or corporation currently or hereinafter licensed by the board, respondent may continue to serve in such capacity.

### **3. Attend Substance Abuse Recovery Relapse Prevention and Support Groups**

Within 30 days of the effective date of this decision, respondent shall begin regular attendance at a board-approved recognized and established substance abuse recovery support group in California, (e.g., Alcoholic Anonymous, Cocaine Anonymous, etc.). Respondent must attend at least one group meeting per week. Respondent shall continue regular attendance and submit signed and dated documentation confirming attendance with each quarterly report for the duration of probation.

### **4. Random Drug Screening**

Respondent, at his or her own expense, shall participate in random testing, including but not limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or a drug screening program approved by the board. The length of time shall be for the entire probation period and the frequency of testing will be determined by the board. At all times respondent shall fully cooperate with the board, and shall, when directed, submit to such tests and samples for the detection of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances. Failure to submit to testing as directed shall constitute a violation of probation. Any confirmed positive drug test shall result in the immediate suspension of practice by respondent. Respondent may not resume the practice of pharmacy until notified by the board in writing.

## **5. Work Site Monitor**

Within 10 days of the effective date of this decision, respondent shall identify a work site monitor, for prior approval by the board, who shall be responsible for supervising respondent during working hours. The work site monitor shall report to the board quarterly. Should the designated work site monitor determine at any time during the probationary period that respondent has not maintained sobriety, he or she shall notify the board immediately, either orally or in writing as directed. Should respondent change employment, a new work site monitor must be designated, for prior approval by the board, within 10 days of commencing new employment.

## **6. Notification of Departure**

If respondent leaves the geographic area for a period greater than 24 hours, respondent shall notify the board verbally and in writing of the dates of departure and return, prior to leaving.

## **7. Abstain from Drugs and Alcohol Use**

Respondent shall completely abstain from the possession or use of alcohol, controlled substances, dangerous drugs and their associated paraphernalia except when the drugs are lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon request of the board, respondent shall provide documentation from the licensed practitioner that the prescription was legitimately issued and is a necessary part of the treatment of the respondent. ~~Respondent shall ensure that he or she is not in the presence of or in the same physical location as individuals who are using illicit substances even if respondent is not personally ingesting the drugs.~~ Additionally, respondent shall cause the prescribing practitioner to notify the board in writing, indicating their awareness of the chemical dependency. Additionally, respondent shall cause the prescribing physician to notify the board in writing, indicating their awareness of the chemical dependency.

## **8. Tolling of Suspension**

If respondent leaves California to reside or practice outside this state, or for any period exceeding 10 days (including vacation), respondent must notify the board in writing of the dates of departure and return. Periods of residency or practice outside the state or any absence exceeding a period of 10 days shall not apply to the reduction of the suspension period.

Respondent shall not act as a pharmacy technician upon returning to this state until notified by the board that the period of suspension has been completed.

## **EXEMPTTEE**

The board files cases against exemptees where the violation(s) involve significant misconduct on the part of the licensee. The board believes that revocation is the appropriate penalty when grounds for discipline are found to exist. Grounds for discipline include, but are not limited to the following violation(s) of law(s) involving:

- Possession of dangerous drugs and/or controlled substances
- Use of dangerous drugs and/or controlled substances
- Possession for sale of dangerous drugs and/or controlled substances
- Personal misuse of drugs or alcohol

If revocation is not imposed, the board recommends a minimum of a Category III level of discipline be imposed on the exemptee. This would include suspension and probation.

An exemptee would be required to be reexamined by the board prior to resuming work as an exemptee.

## **TERMS OF PROBATION - EXEMPTTEE**

A minimum three-year probation period has been established by the board as appropriate in most cases where probation is imposed. A minimum five-year probation period has been established by the board as appropriate where self-administration or diversion of controlled substances is involved. Terms and conditions are imposed to provide consumer protection and to allow the probationer to demonstrate rehabilitation. A suspension period may also be required as part of the probation order. The board prefers that any stayed order be for revocation rather than for some period of suspension.

Probation conditions are divided into two categories: (1) standard conditions that shall appear in **all** probation cases, and (2) optional conditions that depend on the nature and circumstances of a particular case. These conditions may vary depending on the nature of the offense(s).

The board may also impose any other condition appropriate to the case where the condition is not contrary to public policy.

## **CATEGORY OF VIOLATIONS AND RECOMMENDED PENALTIES**

### **CATEGORY III - Penalty**

Minimum: Revocation; Revocation stayed, 90 days actual suspension, three years probation. All standard terms and conditions shall be included and optional terms and conditions as appropriate.

Maximum: Revocation

Applies to all applicable statutes and regulations

### **MODEL DISCIPLINARY LANGUAGE - EXEMPTTEE**



The following standardized language shall be used in every decision where the order of condition is imposed.

### **Revocation - Single Cause**

Certification number \_\_\_\_\_, issued to respondent \_\_\_\_\_ is revoked. Respondent shall relinquish his or her pocket certification to the board within 10 days of the effective date of this decision. Respondent may not petition the board for reinstatement of his or her revoked certification for three years from the effective date of this decision.

A condition of reinstatement shall be that the respondent retake the exemption certification examination.

Respondent shall pay to the board its costs of investigation and prosecution in the amount of \$\_\_\_\_\_ within 15 days of the effective date of this decision.

**Option:** Upon reinstatement of his or her certification respondent shall reimburse the board for its costs of investigation and prosecution in the amount of \$\_\_\_\_\_, and said amount shall be paid in full prior to the reinstatement of his or her certification. If the respondent fails to pay the amount specified, his or her certification shall remain revoked.

### **Revocation - Multiple Causes**

Certification number \_\_\_\_\_, issued to respondent \_\_\_\_\_ is revoked pursuant to Determination of Issues \_\_\_\_\_, separately and together. Respondent shall relinquish his or her pocket certification to the board within 10 days of the effective date of this decision. Respondent may not petition the board for reinstatement of his or her revoked certification for three years from the effective date of this decision. A condition of reinstatement shall be that the respondent retake the exemption certification examination.

Respondent shall pay to the board its costs of investigation and prosecution in the amount of \$\_\_\_\_\_ within 15 days of the effective date of this decision.

**Option:** Upon reinstatement of his or her certification respondent shall reimburse the board for its costs of investigation and prosecution in the amount of \$\_\_\_\_\_, and said amount shall be paid in full prior to the reinstatement of his or her certification. If the respondent fails to pay the amount specified, his or her certification shall remain revoked.

### **Suspension - Single Cause**

Certification number \_\_\_\_\_, issued to respondent \_\_\_\_\_ is suspended for a period of \_\_\_\_\_.

## **Suspension - Multiple Causes**

Certification number \_\_\_\_\_, issued to respondent is suspended for a period of \_\_\_\_\_ pursuant to Determination of Issues \_\_\_\_\_, separately and together. All suspensions shall run concurrently. Respondent is suspended from the duties of an exemptee for \_\_\_\_\_ beginning the effective date of this decision.

## **Standard Stay/Probation Order**

Certification number \_\_\_\_\_ issued to \_\_\_\_\_ is revoked; however, revocation is stayed and respondent is placed on probation for \_\_\_\_\_ years upon the following terms and conditions:

## **Surrender**

Respondent surrenders certification number \_\_\_\_\_ as of the effective date of this decision. Respondent shall relinquish his or her pocket certification to the board within 10 days of the effective date of this decision. Respondent may not reapply for any certification of the board for three years from the effective date of this decision. Respondent stipulates that should respondent apply for any certification from the board on or after the effective date of this decision, all allegations set forth in the [accusation or petition to revoke probation] shall be deemed to be true. Should respondent apply for any new license, respondent will be subject to all terms and conditions not previously satisfied.

Respondent shall meet all requirements applicable to that certification as of the date the application is submitted to the board, including, but not limited to exemptee reexamination prior to the issuance of a new registration or certification.

Respondent further stipulates that he or she shall reimburse the board for its costs of investigation and prosecution in the amount of \$\_\_\_\_\_ within \_\_\_\_\_ days of the effective date of this decision.

**Option:** Respondent stipulates that should he or she apply for any certification from the board on or after the effective date of this decision that investigation and prosecution costs in the amount of \$\_\_\_\_\_ shall be paid to the board prior to issuance of the certification.

## **Adoption of Stipulation**

It is understood by respondent that, in deciding whether to adopt this stipulation, the board may receive oral and written communication from its staff and the Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the board or other persons from future participation in this or any other matter affecting respondent. In the event this settlement is not adopted by the board, the stipulation will not become effective and may not be used for any purpose, except this paragraph, which shall remain in effect.

## **STANDARD CONDITIONS – To be included in all probation decisions/orders.**

Term Number: (Numbers reflect actual term and condition numbers as listed beginning with page \_\_\_\_\_.)

1. Certification Prior to Resuming Work
5. Obey all Laws
6. Reporting to the Board
7. Interview with the Board
5. Cooperation with Board Staff
6. Notice to Employers
9. Reimbursement of Board Costs
10. Probation Monitoring Costs
15. Status of License
16. Notification of Employment/Mailing Address Change
17. Tolling of Probation
18. Violation of Probation
19. Completion of Probation
20. License Surrender While on Probation/Suspension

## **OPTIONAL CONDITIONS**

Term Number: (Numbers reflect actual term and condition numbers as listed beginning with page \_\_\_\_\_.)

1. Actual Suspension
2. No Ownership of Licensed Premises
3. Attend Substance Abuse Recovery Relapse Prevention and Support Group
4. Random Drug Screening
5. Work Site Monitor
6. Notification of Departure
7. Abstain from Drugs and Alcohol Use
8. Tolling of Suspension

## **STANDARD CONDITIONS - TO BE INCLUDED IN ALL PROBATIONS**

### **1. Reexamination Prior to Resuming Work**

Respondent shall be suspended from working as an exemptee until he or she takes and passes the exemption examination as scheduled by the board after the effective date of this decision.

During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the Board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not do any act involving wholesaling, or repackaging or manufacturing, nor shall respondent manage, administer, **or** be a consultant to any licensee of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled substances. Respondent shall not direct or control any aspect of the practice of pharmacy.

Subject to the above restrictions, respondent may continue to own or hold an interest in any pharmacy or wholesaler in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.

### **2. Obey All Laws**

Respondent shall obey all state and federal laws and regulations substantially related to or governing the practice of pharmacy.

### **3. Reporting to the Board**

Respondent shall report to the board quarterly. The report shall be made either in person or in writing, as directed. Respondent shall state under penalty of perjury whether there has been compliance with all the terms and conditions of probation. If the final probation report is not made as directed, probation shall be extended automatically until such time as the final report is made and accepted by the board.

### **4. Interview with the Board**

Upon receipt of reasonable notice, respondent shall appear in person for interviews with the board upon request at various intervals at a location to be determined by the board. Failure to appear for a scheduled interview without prior notification to board staff shall be considered a violation of probation.

### **5. Cooperation with Board Staff**

Respondent shall cooperate with the board's inspectional program and in the board's monitoring and investigation of respondent's compliance with the terms and conditions of his or her probation. Failure to comply shall be considered a violation of probation.

## **6. Notice to Employers**

Respondent shall notify all present and prospective employers of the decision in case number \_\_\_\_\_ and the terms, conditions and restrictions imposed on respondent by the decision. Within 30 days of the effective date of this decision, and within 15 days of respondent undertaking new employment, respondent shall cause his or her employer to report to the board in writing acknowledging the employer has read the decision in case number \_\_\_\_\_.

If respondent works for or is employed by or through a pharmacy employment service, respondent must notify the pharmacist-in-charge and/or owner at every pharmacy of the terms and conditions of the decision in case number \_\_\_\_\_ in advance of the respondent commencing work at each pharmacy.

"Employment" within the meaning of this provision shall include any full-time, part-time, temporary or relief service or pharmacy management service as a pharmacy technician, whether the respondent is considered an employee or independent contractor.

## **7. Reimbursement of Board Costs**

Respondent shall pay to the board its costs of investigation and prosecution in the amount of \$\_\_\_\_\_. Respondent shall make said payments as follows: \_\_\_\_\_.

~~If respondent fails to pay the costs as specified by the board and on the date(s) determined by the board, the board shall, without affording the respondent notice and the opportunity to be heard, revoke probation and carry out the disciplinary order that was stayed. The filing of bankruptcy by respondent shall not relieve respondent of his or her responsibility to reimburse the board its costs of investigation and prosecution.~~

## **8. Probation Monitoring Costs**

Respondent shall pay the costs associated with probation monitoring as determined by the board each and every year of probation. Such costs shall be payable to the board at the end of each year of probation. Failure to pay such costs shall be considered a violation of probation.

## **9. Status of License**

Respondent shall, at all times while on probation, maintain an active current certification with the board, including any period during which suspension or probation is tolled.

If respondent's certification expires or is cancelled by operation of law or otherwise, upon renewal or reapplication, respondent's license shall be subject to all terms and conditions of this probation not previously satisfied.

## **10. Notification of Employment/Mailing Address Change**

Respondent shall notify the board in writing within 10 days of any change of employment. Said notification shall include the reasons for leaving and/or the address of the new employer, supervisor or owner and work schedule, if known. Respondent shall notify the board in writing within 10 days of a change in name, mailing address or phone number.

## **11. Tolling of Probation**

It is a violation of probation for respondent to work less than \_\_\_\_\_ hours per month as an exemptee. Should respondent, regardless of residency, for any reason cease practicing as an exemptee in California, respondent must notify the board in writing within 10 days of cessation of practice or the resumption of the practice. Such periods of time shall not apply to the reduction of the probation period. It is a violation of probation for respondent's probation to remain tolled pursuant to the provisions of this condition for a period exceeding three consecutive years.

"Cessation of practice" means any period of time exceeding 30 days in which respondent is not engaged in the practice of a pharmacy technician as defined in section \_\_\_\_\_ of the Business and Professions Code or as an exemptee as defined in section \_\_\_\_\_ of the Business and Professions Code.

## **12. Violation of Probation**

If respondent violates probation in any respect, the board, after giving respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order which was stayed. If a petition to revoke probation or an accusation is filed against respondent during probation, the board shall have continuing jurisdiction, and the period of probation shall be extended, until the petition to revoke probation or accusation is heard and decided.

If a respondent has not complied with any term or condition of probation, the board shall have continuing jurisdiction over respondent, and probation shall automatically be extended until all terms and conditions have been satisfied or the board has taken other action as deemed appropriate to treat the failure to comply as a violation of probation, to terminate probation, and to impose the penalty which was stayed.

## **13. Completion of Probation**

Upon successful completion of probation, respondent's certificate will be fully restored.

## **14. License Surrender while on Probation/Suspension**

Following the effective date of this decision, should respondent cease practice due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, respondent may tender his or her license to the board for surrender. The board shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent will no longer be subject to the terms and conditions of probation.

Upon acceptance of the surrender, respondent shall relinquish his or her pocket license to the board within 10 days of notification by the board that the surrender is accepted. Respondent may not reapply for any license from the board for three years from the effective date of the surrender. Respondent shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the board.

## **OPTIONAL CONDITIONS OF PROBATION**

### **1. Actual Suspension**

As part of probation, respondent is suspended from the duties of a pharmacy technician for \_\_\_\_\_ beginning the effective date of this decision.

During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not do any act involving drug selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent manage, administer, **or** be a consultant to any licensee of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled substances.

Subject to the above restrictions, respondent may continue to own or hold an interest in any entity licensed by the board in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.

During suspension, respondent shall not perform any of the duties of a pharmacy technician as provided by Section 1793.2 of the California Code of Regulations.

### **2. No Ownership of Licensed Premises**

Respondent shall not own, have any legal or beneficial interest in, or serve as a manager, administrator, member, officer, director, associate, or partner of any business, firm, partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell or transfer any legal or beneficial interest in any entity licensed by the board within 90 days following the effective date of this decision and shall immediately thereafter provide written proof thereof to the board.

**Option:** Respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a manager, administrator, member, officer, director, associate, or partner of any additional business, firm, partnership, or corporation licensed by the board. If respondent owns or has any legal or beneficial interest in, or serve as a manager, administrator, member, officer, director, associate, or partner of any business, firm, partnership, or corporation currently or hereinafter licensed by the board, respondent may continue to serve in such capacity.

### **3. Attend Substance Abuse Recovery Relapse Prevention and Support Groups**

Within 30 days of the effective date of this decision, respondent shall begin regular attendance at a board-approved recognized and established substance abuse recovery support group in California, (e.g., Alcoholic Anonymous, Cocaine Anonymous, etc.). Respondent must attend at least one group meeting per week. Respondent shall continue regular attendance and submit signed and dated documentation confirming attendance with each quarterly report for the duration of probation.

### **4. Random Drug Screening**

Respondent, at his or her own expense, shall participate in random testing, including but not limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or a drug screening program approved by the board. The length of time shall be for the entire probation period and the frequency of testing will be determined by the board. At all times respondent shall fully cooperate with the board, and shall, when directed, submit to such tests and samples for the detection of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances. Failure to submit to testing as directed shall constitute a violation of probation. Any confirmed positive drug test shall result in the immediate suspension of practice by respondent. Respondent may not resume the practice of pharmacy until notified by the board in writing.

## **5. Work Site Monitor**

Within 10 days of the effective date of this decision, respondent shall identify a work site monitor, for prior approval by the board, who shall be responsible for supervising respondent during working hours. The work site monitor shall report to the board quarterly. Should the designated work site monitor determine at any time during the probationary period that respondent has not maintained sobriety, he or she shall notify the board immediately, either orally or in writing as directed. Should respondent change employment, a new work site monitor must be designated, for prior approval by the board, within 10 days of commencing new employment.

## **6. Notification of Departure**

If respondent leaves the geographic area for a period greater than 24 hours, respondent shall notify the board verbally and in writing of the dates of departure and return, prior to leaving.

## **7. Abstain from Drugs and Alcohol Use**

Respondent shall completely abstain from the possession or use of alcohol, controlled substances, dangerous drugs and their associated paraphernalia except when the drugs are lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon request of the board, respondent shall provide documentation from the licensed practitioner that the prescription was legitimately issued and is a necessary part of the treatment of the respondent. ~~Respondent shall ensure that he or she is not in the presence of or in the same physical location as individuals who are using illicit substances even if respondent is not personally ingesting the drugs.~~ Additionally, respondent shall cause the prescribing practitioner to notify the board in writing, indicating their awareness of the chemical dependency. Additionally, respondent shall cause the prescribing physician to notify the board in writing, indicating their awareness of the chemical dependency.



## **8. Tolling of Suspension**

If respondent leaves California to reside or practice outside this state, or for any period exceeding 10 days (including vacation), respondent must notify the board in writing of the dates of departure and return. Periods of residency or practice outside the state or any absence exceeding a period of 10 days shall not apply to the reduction of the suspension period.

Respondent shall not act as a pharmacy technician upon returning to this state until notified by the board that the period of suspension has been completed.

## **TERMS OF PROBATION – PREMISES**

A minimum three-year probation period has been established by the board as appropriate in most cases where probation is imposed. A minimum five-year probation period has been established by the board as appropriate where self-administration or diversion of controlled substances is involved. Terms and conditions are imposed to provide consumer protection and to allow the probationer to demonstrate rehabilitation. A suspension period may also be required as part of the probation order. The board prefers that any stayed order be for revocation rather than for some period of suspension.

Probation conditions are divided into two categories: (1) standard conditions that shall appear in **all** probation cases, and (2) optional conditions that depend on the nature and circumstances of a particular case. These conditions may vary depending on the nature of the offense(s).

The board may also impose any other condition appropriate to the case where the condition is not contrary to public policy.

## **CATEGORIES OF VIOLATIONS AND RECOMMENDED PENALTIES**

The California Pharmacy Law specifies the offenses for which the board may take disciplinary action. The following are categories of violations used by the board in determining appropriate disciplinary penalties.

The board also has the authority, pursuant to Business and Professions Code section 4301(n), to impose discipline based on disciplinary action taken by another jurisdiction. The discipline imposed by the board will depend on the discipline imposed by the other jurisdiction, the extent of the respondent's compliance with the terms of that discipline, the nature of the conduct for which the discipline was imposed, and other factors set forth in these guidelines.

### **CATEGORY I**

Minimum: Revocation; Revocation stayed; one-year probation. All standard terms and conditions shall be included and optional terms and conditions as appropriate.

Maximum: Revocation

Category I discipline is recommended for:

- violations which are relatively minor but are potentially harmful
- repeated violations of a relatively minor nature:

Violation codes are as follows:

## **BUSINESS AND PROFESSIONS CODE**

### **Article 3. Scope of Practice and Exemptions**

4053	Exemptee Supervision of Manufacturers, Wholesalers, and Licensed Laboratories; Veterinary Food-Animal Drug Retailers
------	----------------------------------------------------------------------------------------------------------------------

4054	Supplying Dialysis Drugs
4056	Exempt Hospitals
4057	Exempt Articles
4058	License to be Displayed
4062	Furnishing Drugs during Emergency
4064	Emergency Refills
4065	Administration through Injection Card System
4066	Furnishing to Ocean Vessel

#### **Article 4. Requirements for Prescription**

4070	Reduction of Oral or Electronic Prescription to Writing
4071	Prescriber's Agent Transmitting Prescriptions
4072	Transmitting Prescriptions from a Health Care Facility
4073	Drug Product Selection
4074	Drug Warnings
4076	Prescription Label Requirements
4077	Labeling

#### **Article 5. Authority of Inspectors**

4082	Information about Personnel
------	-----------------------------

#### **Article 6. General Requirements**

4100	Change of Name or Address
4102	Skin Puncture for Patient Training
4103	Blood Pressure Measurement

#### **Article 7. Pharmacies**

4114	Intern Pharmacist Activities
4120	Emergency Kit for Licensed Health Care Facilities
4119.5	Transferring or Repacking Drugs
4121	Prescription Price Advertising
4122	Requests for Prescription Price Information
4123	Pharmacy contracts for Compounding of Parenteral Drugs
4124	Contact Lens Dispensing

#### **Article 9. Hypodermic Needles and Syringes**

4141	License Required
4142	Prescription Required
4143	Exemption: Wholesale Sales
4144	Exemption: Industrial Uses
4145	Exemption: Human (Insulin; Adrenaline) or Animal Use
4146	Hypodermic Register
4148	Confiscation
4149	Nonresident Distributor

## **Article 10. Pharmacy Corporations**

- 4151 Requirements for Shareholders, Directors, and Officers
- 4152 Corporate Name
- 4153 Shareholder Income while Disqualified
- 4156 Unprofessional Conduct

## **Article 11. Wholesalers and Manufacturers**

- 4161 Out-of-State Manufacturer or Wholesaler
- 4162 Registration -- Agent
- 4164 Sales to Unauthorized Persons
- 4165 Furnishing Records
- 4166 Responsibility until Delivery
- 4167 Bar on Obtaining More Than Can Be Stored on Licensed Premises

## **Article 13. Non-Profit or Free Clinics**

- 4182 License Required (Non-Profit, etc Clinics)
- 4183 License Requirements
- 4182 Application; Consulting Pharmacist
- 4183 No Medi-Cal Dispensing Fee
- 4184 No Schedule II Dispensing
- 4186 Professional Director

## **Article 14. Surgical Clinics**

- 4190 License Required (Surgical Clinic)
- 4191 License Requirements
- 4192 Professional Director
- 4193 No Medi-Cal Dispensing Fee
- 4194 No Schedule II Dispensing

## **Article 15. Veterinary Food-Animal Drug Retailers**

- 4196 License Required; Temporary License; Security
- 4197 Standards; Waiver
- 4198 Policies and Procedures; Quality Assurance; Consulting Pharmacist

## **Article 17. Continuing Education**

- 4233 Renewal Requirements
- 4234 Course Content

## **Article 18. Poisons**

- 4240 Application of Act

## Article 20. Prohibitions and Offenses

- 4341 Advertising in Compliance with Sections 651.3
- 4343 Use of Sign with "Pharmacy" or Similar Terms

## CALIFORNIA CODE OF REGULATIONS, TITLE 16

- 1704 Change of address - reporting a change of address
- 1705 Notification of Bankruptcy, Receivership or Liquidation - reporting the sale, inventory and location of records of dangerous drugs by a pharmacy, wholesaler or manufacturer in bankruptcy
- ~~1706.1 Permit Processing Times~~
- 1708.2 Discontinuance of business - notification to board of a discontinuance of business and submission of appropriate forms
- 1708.4 Pharmacist handling radioactive drug - training of a nuclear pharmacist
- 1708.5 Pharmacy Furnishing Radioactive Drugs - nuclear pharmacy requirements
- 1709 Names of Owners and pharmacist-in-charge - required information on a pharmacy permit, reporting PIC and owners on initial and renewal applications, and reporting of corporate officer changes
- 1714 Building Standards and Security
- 1715.6 Reporting drug loss - reporting loss of controlled substances to the Board within thirty (30) day
- 1716 Variation from prescriptions - prescription errors, deviation from prescription without consent of prescriber
- 1717 Pharmaceutical practice - dispensing in new containers, pharmacist maintain on prescription record: date and initial of pharmacist, brand name of drug or device and indication if generic and manufacturer name, refill information, orally transmitted prescription requirements, depot of a prescription or a medication, prescription transfers, identification of pharmacist responsible for filling a prescription
- 1717.1 Common Electronic Files - establishing a common electronic file to maintain required dispensing information
- 1717.4 Electronic Transmission of Prescriptions - transmitting prescriptions by electronic means from prescriber to the pharmacy
- 1718.1 Manufacturer's Expiration Date - handling of prescription drugs not bearing a manufacturer's expiration date pursuant to federal law
- 1726 Preceptor
- 1727 Intern Pharmacist
- 1728 Intern Experience - Requirements for Licensure
- 1732.1 Requirements for Recognized Providers - requirements to provide continuing education courses as a recognized provider for California pharmacists
- 1732.3 Coursework Approval for Providers
- 1732.4 Provider Audit Requirements

- 1732.5      Renewal Requirements for Pharmacist
- 1744      Drug warnings - oral or written warnings when a drug should not be taken with alcohol or when a person should not drive
- 1751 to
- 1751.09 and
- 1751.11 to
- 1751.12      Compounding Area for Parenteral Solutions - parenteral therapy requirements for pharmacists and pharmacies
- 1771      Posting notice of suspension - suspended pharmacy must post a notice of suspension
- 1772      Disciplinary conditions of suspension - suspended pharmacist shall not enter a pharmacy prescription area or perform pharmacy related duties
- 1780      Minimum standards for wholesalers
- 1780.1      Minimum Standards for Veterinary Food-Animal Drug Retailers
- 1781      Exemption certificate - exemptee must be present in a manufacturer's or wholesaler's licensed premises
- 1786      Exemptions -return of exemption certificate to board upon termination of employment
- 1787      Authorization to Distribute Hemodialysis Drugs and Devices
- 1790      Assembling and Packaging
- 1791      Labeling
- 1792      Receipt of Shipment

## **HEALTH AND SAFETY CODE, TITLE 22**

- 11100      Report of controlled substance transaction - reporting sales of restricted chemicals to Department of Justice
- 11100.1      Report of controlled substances received from outside state – reporting Purchases of restricted chemicals from outside California
- 11124      Inventory of Controlled Substances
- 11151      Filling Prescription Issued By Unlicensed Person Lawfully Practicing Medicine
- 11158      Prescription required for Schedule I, II, III or IV controlled substances - prescriptions for controlled substances must comply with requirements prior to dispensing
- 11159      Exemption for patient in county or licensed hospital - controlled substance orders in hospitals
- 11159.1      Clinic Records
- 11159.2      Terminally Ill Exception
- 11167      Emergency dispensing of Schedule II substance - emergency oral Schedule II prescriptions; must receive a triplicate within seventy-two (72) hours
- 11167.5      Emergency oral prescriptions for in-patients - oral orders for Schedule II drugs in a skilled nursing facility, intermediate care facility, or a home health care agency providing hospice care; pharmacy to obtain special triplicates from Dept. of Justice; facility must forward all signed order to the pharmacy
- 11171      Prescribing, administering, or furnishing controlled substance – furnishing controlled substances must be consistent with law
- 11172      Antedating or postdating prescription
- 11175      Obtaining and possession nonconforming prescription; obtaining controlled substance by nonconforming prescription
- 11180      Controlled substance obtained or possessed by nonconforming prescription - possession of a controlled substance obtained from noncomplying prescriptions

- 11200 Restrictions on dispensing or refilling - refill restrictions of controlled substances
- 11201 Emergency Refill by Pharmacist
- 11205 Maintenance and retention of file - separate prescription file for Schedule II prescriptions
- 11206 Required information - information required on a prescription for controlled substances
- 11209 Delivery of Controlled Substances
- 11210 Prescription under authorized project - a prescriber may not prescribe controlled substances to treat addiction
- 11250 Authorized Retail Sale by Pharmacists
- 11251 Authorized Wholesale Sale by Pharmacists
- 11252 Preservation of federally required forms - a wholesaler or manufacturer must maintain records of sales
- 11253 Duration of retention
- 11255 Actions constituting sale - orders for future delivery constitutes a sale of a controlled substance
- 11256 Report of Order by or Sale to Out-of-State Wholesaler

## **CODE OF FEDERAL REGULATIONS, TITLE 21**

- 1301.13 Persons Required to Register
- 1301.14 Separate Registration for Separate Locations
- 1301.71 Security requirements, generally
- 1301.72 Physical security controls for non-practitioners; narcotic treatment programs and compounders for narcotic treatment programs; storage areas
- 1301.73 Physical security controls for non-practitioners; compounders for narcotic treatment programs; manufacturing and compounding areas
- 1301.74 Other security controls for non-practitioners; narcotic treatment programs and compounders for narcotic treatment programs
- 1301.77 Physical security controls for practitioners
- 1301.78 Other Security Controls for Practitioners
- 1301.90 Employee screening procedures
- 1301.91 Employee responsibility to report drug diversion
- 1301.92 Illicit activities by employees
- 1302.03 Symbol required; exceptions
- 1302.04 Location and size of symbol on label
- 1302.05 Effective Dates of Labeling Requirements
- 1302.06 Sealing of controlled substances
- 1302.07 Labeling and packaging requirements for imported and exported substances
- 1304.18 Inventories of importers and exporters
- 1304.31 Reports from manufacturers importing opium
- 1304.32 Reports of manufacturers importing medicinal coca leaves
- 1304.33 Reports to ARCOS
- 1305.03 to
- 1305.06 and
- 1305.08 to
- 1305.12 and
- 1305.14 to
- 1305.16 Distributions requiring order forms; persons entitled to obtain and execute order forms; procedure for obtaining order forms; procedure for executing order forms;

	persons entitled to fill order forms; procedure for filling order forms; procedure for endorsing order forms; unaccepted and defective order forms; lost and stolen order forms; return of unused order forms
1306.03	Persons entitled to issue prescriptions
1306.05	Manner of issuance of prescriptions
1306.14	Labeling of substances - Schedule II.
1306.24	Labeling of substances - Schedule III and IV
1306.26	Transfer of Schedule III, IV, and V Prescriptions
1306.26	Dispensing Without a Prescription
1307.11	Distribution by dispenser to another practitioner -
1307.12	Manufacture and distribution of narcotic solutions and compounds by a pharmacist
1307.13	Distribution to supplier
1307.21	Procedure for disposal of controlled substances

## **MISCELLANEOUS - HEALTH AND SAFETY CODE,TITLE 22**

111225 to	
111655	Adulterated or misbranded drugs or devices

## **MISCELLANEOUS-FEDERAL REGULATIONS**

16 CFR 1700.1 to	
1707.15	Child-resistant containers

## **CATEGORY II**

Minimum: Revocation; Revocation stayed, three years probation (five years probation where self-administration or diversion of controlled substances is involved). All standard terms and conditions shall be included and optional terms and conditions as appropriate.

Maximum: Revocation

Category II discipline is recommended for:

- violations with a serious potential for harm
- violations which involve greater disregard for pharmacy law and public safety
- violations which reflect on ethics, care exercised or competence or a criminal conviction not involving dangerous drugs or controlled substances or involving possession or use of dangerous drugs or controlled substances.



Violation codes are as follows:

## **BUSINESS AND PROFESSIONS CODE**

### **Article 3. Scope of Practice and Exemptions**

4051(b)	Conduct Authorized by Pharmacist from Outside Pharmacy
4052	conduct Authorized by Pharmacist
4060	Possession of Controlled Substance
4061	Distribution of Sample Drugs
4064	Refills
4067	Prescription Dispensing over the Internet
4076	Proof of Identity of Recipient for Controlled Substance Prescriptions
4079	False or Misleading Labeling

### **Article 6. General Requirements**

4101	Termination as Pharmacist in Charge; Notice to Board
4106	Licensed Employee:Theft or Impairment
4107	Retaining Records on Premises

### **Article 7. Pharmacies**

4113	Non-Resident Pharmacy Registration
4113	Pharmacist in Charge
4116	Pharmacy Technician Activities
4115.5	Pharmacy Technician Trainee
4116	Security – Pharmacy
4117	Security – Hospital Pharmacy
4120	Non-Resident Pharmacy Registration

### **Article 9. Hypodermic Needle and Syringes**

4140	Possession
4147	Disposal

### **Article 11. Wholesalers and Manufacturers**

4161	License Required
4163	Sales to Unauthorized Persons
4164	Reporting by Manufacturer and Wholesalers

### **Article 13. Non-Profit of Free Clinics**

4185	Inspections
------	-------------

### **Article 14. Surgical Clinics**

4195	Inspections
------	-------------

## **Article 19. Disciplinary Proceedings**

- 4301 General unprofessional conduct and subsections (a)-(h), and (l) through (q)
- 4302 Pharmacy Corporation
- 4303 Nonresident Pharmacy
- 4304 Out-of-State Distributors
- 4307 Failure to Notify Board of Termination of Pharmacist in Charge; Operation of Pharmacy without a Pharmacist
- 4305.5 Failure to Keep Pharmacist in Charge or Exemptee in Charge; Failure to Notify Board of Termination of Same
- 4308 Violation of Moscone-Knox Professional Corporation Act
- 4306.5 Pharmacist Misuse of Education, etc.

## **Article 20. Prohibitions and Offenses**

- 4326 Hypodermics: Obtaining Falsely; Misuse
- 4328 Allowing Compounding by Non-pharmacist
- 4330 Pharmacy; Failure to Place Pharmacist in Charge-, Subverting Compliance with Law by Pharmacist-in- Charge
- 4331 Veterinary Food-Animal Drug Retailer; Dispensing by Other than Pharmacist or Exemptee; Failure to Place Pharmacist or Exemptee in Charge
- 4333 Failure to Maintain Prescription Files
- 4340 Advertisement of Pharmacy Services by Unregistered Non-Resident Pharmacy

## **Article 22. Unfair Trade Practices**

- 4380 Resale of Preferentially Priced Drugs; Emergency Exception
- 4381 Violation of Section 4380 as Unfair Competition; Right of Private Action to Enforce
- 4382 Authority of Board to Audit for Compliance

## **CALIFORNIA CODE OF REGULATIONS, TITLE 16**

- 1707.1 Duty to maintain medication profiles (patient medication records) - requirements for maintenance of patient medication profiles
- 1707.2 Notice to consumers and duty to consult - requirements of pharmacist to consult; posting of notice to consumers
- 1707.3 Reviewing the patient profile prior to consultation
- 1709.1 Designation of pharmacist in charge
- 1714.1 Pharmacy Operation during Absence of Pharmacist
- 1716 Self-Assessment of a Pharmacy by the Pharmacist-in-Charge
- 1715.5 Transmitting Schedule II Prescription Information to CURES
- 1716.1 Compounding drugs for prescriber office use
- 1716.2 Record requirements when compounding for future furnishing
- 1717.2 Notice of Electronic Prescription Files
- 1717.3 Preprinted multiple check-off prescription blanks
- 1723.1 Confidentiality of Examination Questions
- 1745 Partial filling of Schedule II prescriptions
- 1751.10 Furnishing to parenteral patient at home - carrying and furnishing dangerous drugs to parenteral patients

1761(a)	Erroneous or Uncertain Prescriptions -
1764	Unauthorized disclosure of prescriptions - revealing the contents of a prescription to unauthorized persons
1765	Commissions, gratuities and rebates - commission, gratuity or rebate to a health care facility
1766	False or misleading advertising
1775.4	Compliance with Orders of Abatement
1784	Reporting Sales of Drugs Subject to Abuse
1785	Manufacturer or Wholesaler Furnishing
1793.1 to	
1793.7	Ancillary personnel - pharmacy technician requirements and tasks

## **HEALTH AND SAFETY CODE, TITLE 22**

11103	Report of theft, loss, or shipping discrepancy - reporting losses of restricted chemicals to Department of Justice
11123	Warehouseman License
11124	Warehouse Inventory
11125	Warehouseman Bond
11128	Nontransferability of Warehouse License
11129	Discipline or Denial of Warehouse License
11130	Disciplinary Grounds for Warehouse License
11131	Disciplinary Grounds for Warehouse License
11150	Issuing Controlled Substance Prescription
11152	Nonconforming prescriptions - filling a prescription that does not conform to the requirements of the code
11154	Issuing Prescriptions; Soliciting Unlawful Prescription
11156	Administering or dispensing controlled substance to addict - prohibition on administering or dispensing a controlled substance to an addict or a habitual user
11164	Completion of prescription for Schedule II-V controlled substance - prescription requirements for controlled substances
11166	Time For Filling Schedule II Prescriptions; Mutilated, Forged or Altered Prescriptions
11170	Prohibition on controlled substance for self use - prohibition on prescribing, administering or furnishing controlled substance to self
11179	Retention period - prescription file to be maintained' for three (3) years
11207	Filling prescription only by pharmacist or intern pharmacist - dispensing, compounding, filling by pharmacist or intern pharmacist only
11209	Delivery and Receiving Requirements for Schedule II, III & IV Substances
11350	Possession of specified controlled substance - illegal possession of a narcotic
11377	Unlawful possession of specified substance - illegal possession of a non-narcotic controlled substance

## **CODE OF FEDERAL REGULATIONS, TITLE 21**

1304.03	Persons required to keep records and file reports
1304.04	Maintenance of records and inventories
1304.11	General requirements for inventories
1304.21	General requirements for continuing records
1304.22	Records for manufacturers
1305.07	Power of attorney
1305.13	Preservation of order forms
1306.04	Purpose of issue of prescription
1306.06	Persons entitled to fill prescriptions
1306.08	Administering or dispensing of narcotic drugs
1306.11	Requirement of Schedule II Prescriptions
1306.12	Refilling prescriptions - Schedule II
1306.13	Partial filling of prescriptions - Schedule II
1306.21	Requirement of prescription - Schedule III and IV
1306.22	Refilling of prescriptions - Schedule III and IV
1306.23	Partial filling of prescriptions - Schedule III and IV

## **CATEGORY III**

Minimum: Revocation; Revocation stayed, 90 days actual suspension, three to five years probation (five years probation where self-administration or diversion of controlled substances is involved). All standard terms and conditions and optional terms and conditions as appropriate.

For a licensed premises, a minimum 14-28 days actual suspension.

Maximum: Revocation

Category III discipline is recommended for:

- most criminal convictions involving dangerous drugs or controlled substances
- knowing or willfully violating laws or regulations pertaining to dispensing or distributing dangerous drugs or controlled substances
- fraudulent acts committed in connection with the licensee's practice
- drug shortages
- violation of a licensee's corresponding responsibility.

Violation codes are as follows:

## **BUSINESS AND PROFESSIONS CODE**

### **Article 3. Scope of Practice and Exemptions**

- 4051(a) Conduct Limited To Pharmacist
- 4060 Furnishing without prescription
- 4059.5 Ordering Dangerous Drugs or Devices

### **Article 5. Authority of Inspectors**

- 4080 Stock Open for Inspection
- 4081 Records of Acquisition and Dispensing; Inspection

### **Article 7. Pharmacies**

- 4110 Requirement of License; Temporary Licenses
- 4111 Ownership by Prescribers Prohibited

### **Article 15. Veterinary Food-Animal Retailers**

- 4199 Labeling, Recordkeeping

### **Article 19. Disciplinary Proceedings**

- 4301 Subsections (i) and (k)
- 4307 Prohibition against Association with a License
- 4308 Notification of Licensee Person is Prohibited from Association; Replacement

## **Article 20. Prohibitions and Offenses**

4322	False Representation to Obtain Licensure
4323	False Representation by Telephone or Electronic Transmission to Obtain a Drug
4324	Forgery or Alteration
4325	Producing Prescription Blanks Without Authorization
4327	Use of Alcohol or Drugs while on Duty
4329	Nonpharmacist Taking Charge
4332	Failure or Refusal to Produce or Provide Records
4337	Failure to Arrange for Transfer of Stock after Closure
4338	Use of Minor as Agent to Violate Pharmacy Law

## **CALIFORNIA CODE OF REGULATIONS, TITLE 16**

1718	Current inventory defined - audit accountability of dangerous drugs
1761(b)	Controlled substance prescription--professional judgment
1771 to	
1774	Disciplinary conditions of suspension and probation

## **HEALTH AND SAFETY CODE, TITLE 22**

11104	Providing controlled substances for manufacturing
11105	False Statement in Report
11122	Storage of Controlled Substances
11150	Persons authorized to write or issue a prescription
11153	Responsibility for controlled substance prescription – corresponding responsibility of a pharmacist
11153.5	Furnishing a controlled substance for other than a legitimate medical purpose - corresponding responsibility of a wholesaler or manufacturer
11157	False or fictitious prescription - issuing a false or fictitious prescription
11162.5	Counterfeiting or possession of counterfeit prescription blank
11173	Fraud, deceit, misrepresentation or false statement - obtaining controlled Substances by fraud or deceit
11174	False name or address - false name or address on prescription
11351	Possession or purchase for sale of specified controlled substance – illegal possession for sale of a narcotic
11368	Forged or altered prescriptions-forging a narcotic prescription
11375	Possession for sale or selling specified substance
11378	Possession for sale-illegal possession for sale of a nonnarcotic
11550	Use or being under the influence of controlled substance

## **CATEGORY IV**

Penalty: Revocation

Revocation is recommend for violations the Uniform Controlled Substance Act (Heath and

Safety Code 11000 et seq.)

- possession for sale
- transportation
- importation
- sale
- use of a minor for the unlawful sale of controlled substances

Revocation is also recommended when:

- a respondent fails to file a notice of defense or to appear at a disciplinary hearing where the board has requested revocation in the accusation
- a respondent violates the terms and conditions of probation from a previous disciplinary order
- prior discipline has been imposed, as progressive discipline unless the respondent can demonstrate satisfactory evidence of rehabilitation.

Violation codes are as follows:

## **HEALTH AND SAFETY CODE, TITLE 22**

- |       |                                                                                                                          |
|-------|--------------------------------------------------------------------------------------------------------------------------|
| 11352 | Importing, selling, furnishing controlled substance - illegal sale of a narcotic                                         |
| 11353 | Adult inducing minor to violate controlled substances provisions                                                         |
| 11379 | Transporting, importing, selling controlled substances - illegal sale of a non-narcotic                                  |
| 11380 | Adult using, soliciting or intimidating minor for violation - violation of non-narcotic provisions or the use of a minor |

## MODEL DISCIPLINARY LANGUAGE - PREMISES

The following standardized language shall be used in every decision where the order or condition is imposed.

### Revocation - Single Cause

License number \_\_\_\_\_, issued to respondent \_\_\_\_\_ is revoked.

**For premises:** Respondent shall, by the effective date of this decision, arrange for the destruction of, the transfer to, sale of or storage in a facility licensed by the board of all controlled substances and dangerous drugs and devices. Respondent shall provide written proof of such disposition to the board within five days of disposition.

### Revocation - Multiple Causes

License number \_\_\_\_\_, issue to respondent \_\_\_\_\_ is revoked pursuant to Determination of Issues \_\_\_\_\_, separately and together.

**For premises:** Respondent shall, by the effective date of this decision, arrange for the destruction of, the transfer to, sale of or storage in a facility licensed by the board of all controlled substances and dangerous drugs and devices. Respondent shall provide written proof of such disposition to the board within five days of disposition.

### Suspension - Single Cause

License number \_\_\_\_\_, issued to respondent \_\_\_\_\_ is suspended for a period of \_\_\_\_\_.

### Suspension - Multiple Causes

Respondent is suspended from \_\_\_\_\_ operations for \_\_\_\_\_ beginning the effective date of this decision.

### Standard Stay/Probation Order

License number \_\_\_\_\_, issued to respondent is \_\_\_\_\_; however, the \_\_\_\_\_ is stayed and respondent is placed on probation for \_\_\_\_\_ years upon the following terms and conditions:

### Issuance of Probationary License

The application for licensure of respondent is hereby granted, on the following terms and conditions:

1. That, respondent first meet all statutory and regulatory requirements for the issuance of a license to \_\_\_\_\_.
2. That, following the satisfaction of #1, respondent's license be issued and immediately revoked, the order of revocation being stayed and respondent placed on probation for a period of \_\_\_\_\_ years on the following terms and conditions:



## **Surrender**

Respondent surrenders license number \_\_\_\_\_ as of the effective date of this decision. Respondent shall relinquish his or her wall license and pocket renewal license to the board within 10 days of the effective date of this decision. Respondent may not reapply for any license, permit, or registration from the board for three years from the effective date of this decision. Respondent stipulates that should he or she apply for any license from the board on or after the effective date of this decision, all allegations set forth in the [accusation or petition to revoke probation] shall be deemed to be true. Respondent shall satisfy all requirements applicable to that license as of the date the application is submitted to the board, including, but not limited to taking and passing the California Pharmacist Licensure Examination prior to the issuance of a new license. Respondent is obligated to report this surrender as disciplinary action.

Respondent further stipulates that he or she shall reimburse the board for its costs of investigation and prosecution in the amount of \$\_\_\_\_\_ within \_\_\_\_\_ days of the effective date of this decision.

**Option:** Respondent stipulates that should he or she apply for any license from the board on or after the effective date of this decision the investigation and prosecution costs in the amount of \$\_\_\_\_\_ shall be paid to the board prior to issuance of the new license.

## **Public Reprimand**

It is hereby ordered that a public reprimand be issued against licensee, \_\_\_\_\_.

## **Adoption of Stipulation**

It is understood by respondent that, in deciding whether to adopt this stipulation, the board may receive oral and written communication from its staff and the Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the board or other persons from future participation in this or any other matter affecting respondent. In the event this settlement is not adopted by the board, the stipulation will not become effective and may not be used for any purpose, except this paragraph, which shall remain in effect.

**STANDARD CONDITIONS** - To be included in all probation decisions/orders.

Term Number: (Numbers reflect actual term and condition numbers as listed beginning with page \_\_\_\_\_.)

1. Obey all laws
2. Reporting to the Board
3. Interview with the Board
4. Cooperation with Board Staff
5. Reimbursement of Board Costs
6. Probation Monitoring Costs
7. Status of License
8. License Surrender while on Probation/Suspension
9. Notice to Employees
10. Owners and Officers: Knowledge of law
11. Violation of Probation
12. Completion of Probation
13. ~~Posted Notice of Probation~~

**OPTIONAL CONDITIONS**

Term Number: (Numbers reflect actual term and condition numbers as listed beginning with page \_\_\_\_\_.)

1. Actual Suspension
2. Community Service Program
3. Restitution
4. Separate File of Records
5. Report of Controlled Substances
6. Surrender of DEA Permit
7. Posted Notice of Suspension

## **STANDARD CONDITIONS: TO BE INCLUDED IN ALL PROBATIONS**

### **1. Obey All Laws**

Respondent shall obey all state and federal laws and regulations substantially related to or governing the practice of pharmacy.

Respondent shall report any of the following occurrences to the board, in writing, within 72 hours of such occurrence:

- an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws
- a plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment
- a conviction of any crime
- discipline, citation, or other administrative action filed by any state and federal agency which involves respondent's \_\_\_\_\_ license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling or distribution or billing or charging for of any drug, device or controlled substance.

### **2. Reporting to the Board**

Respondent shall report to the board quarterly. The report shall be made either in person or in writing, as directed. Respondent shall state under penalty of perjury whether there has been compliance with all the terms and conditions of probation. If the final probation report **is not** made as directed, probation shall be extended automatically until such time as the final report is made and accepted by the board.

### **3. Interview with the Board**

Upon receipt of reasonable notice, respondent shall appear in person for interviews with the board upon request at various intervals at a location to be determined by the board. Failure to appear for a scheduled interview without prior notification to board staff shall be considered a violation of probation.

### **4. Cooperation with Board Staff**

Respondent shall cooperate with the board's inspectional program and in the board's monitoring and investigation of respondent's compliance with the terms and conditions of his or her probation. Failure to comply shall be considered a violation of probation.

### **5. Reimbursement of Board Costs**

Respondent shall pay to the board its costs of investigation and prosecution in the amount of \$ \_\_\_\_\_. Respondent shall make said payments as follows: \_\_\_\_\_.

~~If respondent fails to pay the costs as specified by the board on or before the date(s) determined by the board, the board shall, without affording the respondent notice and the opportunity to be heard, revoke probation and carry out the disciplinary order that was stayed. The filing of bankruptcy by respondent shall not relieve respondent of his or her responsibility to~~

reimburse the board its costs of investigation and prosecution.

## **6. Probation Monitoring Costs**

Respondent shall pay the costs associated with probation monitoring as determined by the board each and every year of probation. Such costs shall be payable to the board at the end of each year of probation. Failure to pay such costs shall be considered a violation of probation.

## **7. Status of License**

Respondent shall, at all times while on probation, maintain a current license with the board. If respondent submits an application to the board, and the application is approved, for a change of location, change of permit or change of ownership, the board shall retain continuing jurisdiction over the license, and the respondent shall remain on probation as determined by the board.

## **8. License Surrender while on Probation/Suspension**

Following the effective date of this decision, should respondent cease practice due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, respondent may tender his or her license to the board for surrender. The board shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent will no longer be subject to the terms and conditions of probation.

Upon acceptance of the surrender, respondent shall relinquish his or her pocket license to the board within 10 days of notification by the board that the surrender is accepted. Respondent may not reapply for any license from the board for three years from the effective date of the surrender. Respondent shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the board.

## **9. Notice to Employees**

Respondent shall, upon or before the effective date of this decision, ensure that all employees involved in permit operations are made aware of all the terms and conditions of probation, either by posting a notice of the terms and conditions, circulating such notice, or both. If the notice required by this provision is posted, it shall be posted in a prominent place and shall remain posted throughout the probation period. Respondent shall ensure that any employees hired or used after the effective date of this decision are made aware of the terms and conditions by posting a notice, circulating a notice, or both.

"Employees" as used in this provision includes all full-time, part-time, temporary and relief employees and independent contractors employed or hired at any time during probation.

## **10. Owners and Officers: Knowledge of the Law**

Respondent shall provide, within 30 days after the effective date of this decision, signed and dated statements from its owners, including any owner or holder of 10% or more of the interest in respondent or respondent's stock, and any officer, stating said individuals have read and are familiar with state and federal laws and regulations governing the practice of pharmacy.

## **11. Violation of Probation**

If respondent violates probation in any respect, the board, after giving respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order which was stayed. If a petition to revoke probation or an accusation is filed against respondent during probation, the board shall have continuing jurisdiction and the period of probation shall be extended, until the petition to revoke probation or accusation is heard and decided.

If a respondent has not complied with any term or condition of probation, the board shall have continuing jurisdiction over respondent, and probation shall automatically be extended until all terms and conditions have been satisfied or the board has taken other action as deemed appropriate to treat the failure to comply as a violation of probation, to terminate probation, and to impose the penalty which was stayed.

## **12. Completion of Probation**

Upon successful completion of probation, respondent's license will be fully restored.

## **~~13. Posted Notice of Probation~~**

~~Respondent shall prominently post a probation notice provided by the board in a place conspicuous and readable to the public. The probation notice shall remain posted during the entire period of probation.~~

~~Respondent shall not, directly or indirectly, engage in any conduct or make any statement which is intended to mislead or is likely to have the effect of misleading any patient, customer, member of the public, or other person as to the nature of and reason for the closure of the licensed entity.~~

## **OPTIONAL CONDITIONS OF PROBATION**

### **1. Actual Suspension**

As part of probation, respondent pharmacy is suspended from the operation of pharmacy for \_\_\_\_\_ days beginning the effective date of this decision.

During suspension, respondent pharmacy may not order, maintain or dispose of any dangerous drugs and devices or controlled substances. The pharmacy may not make demand or bill for any drugs or services during the period of suspension and may not process any claims for pharmacy services during the period of suspension, except as to services rendered prior to the effective date of the suspension period. The pharmacy shall not receive or transmit any prescription, new or refill, during the period of suspension. Where the pharmacy does not

maintain dangerous drugs and devices or controlled substances in an area which can be closed off from the rest of the pharmacy and locked, the entire pharmacy must be closed during the period of suspension.

## **2. Community Services Program**

Within 60 days of the effective date of this decision, respondent shall submit to the board, for its prior approval, a community service program in which respondent shall provide free health-care related services on a regular basis to a community or charitable facility or agency for at least \_\_\_\_\_ hours per \_\_\_\_\_ for the first \_\_\_\_\_ of probation.

## **3. Restitution** (Appropriate in cases of drug diversion, theft, fraudulent billing, or patient harm resulting from negligence or incompetence.)

Within \_\_\_\_\_ days of the effective date of this decision, respondent shall pay restitution to \_\_\_\_\_ in the amount of \$ \_\_\_\_\_.

## **4. Separate File of Records**

Respondent shall maintain a separate file of all records pertaining to the acquisition or disposition of all controlled substances.

## **5. Report of Controlled Substances**

Respondent shall submit quarterly reports to the board the total acquisition and disposition of such controlled substances as the board may direct. Respondent shall specify the manner of disposition (e.g., by prescription, due to burglary, etc.) or acquisition (e.g., from a manufacturer, from another retailer, etc.) of such controlled substances. Respondent shall report on a quarterly basis or as directed by the board. The report shall be delivered or mailed to the board no later than 10 days following the end of the reporting period.

## **6. Surrender of DEA Permit**

Respondent pharmacy shall surrender its DEA permit to the DEA within 30 days of the effective date of this decision.

**Option:** Respondent may obtain a DEA permit restricted to Schedule(s) \_\_\_\_\_ controlled substance(s).

**Option:** Respondent shall not order, receive, or retain any federal order forms, including 222 forms, for controlled substances.

## **7. Posted Notice of Suspension**

Respondent shall prominently post a suspension notice provided by the board in a place conspicuous and readable to the public. The suspension notice shall remain posted during the entire period of actual suspension.

Respondent shall not, directly or indirectly, engage in any conduct or make any statement, orally, electronically or in writing, which is intended to mislead or is likely to have the effect of

misleading any patient, customer, member of the public, or other person as to the nature of and reason for the closure of the licensed entity.

2/27/2001